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REVIEW OF U.N. CHARTER AND ESTABLISHMENT  
OF A COMMISSION ON U.S. PARTICIPATION IN  
THE UNITED NATIONS DOCUMENTS

GOVERNMENT

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HEARINGS  
BEFORE THE  
SUBCOMMITTEE ON INTERNATIONAL  
ORGANIZATIONS AND MOVEMENTS  
OF THE  
COMMITTEE ON FOREIGN AFFAIRS  
HOUSE OF REPRESENTATIVES  
NINETY-SECOND CONGRESS

SECOND SESSION

ON

H. Con. Res. 80, 258  
AND SIMILAR AND IDENTICAL RESOLUTIONS  
AND

H.J. Res. 1143 and 1144  
AND SIMILAR AND IDENTICAL RESOLUTIONS

APRIL 27 AND MAY 1, 1972



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JEAN BROWN, *Staff Assistant*



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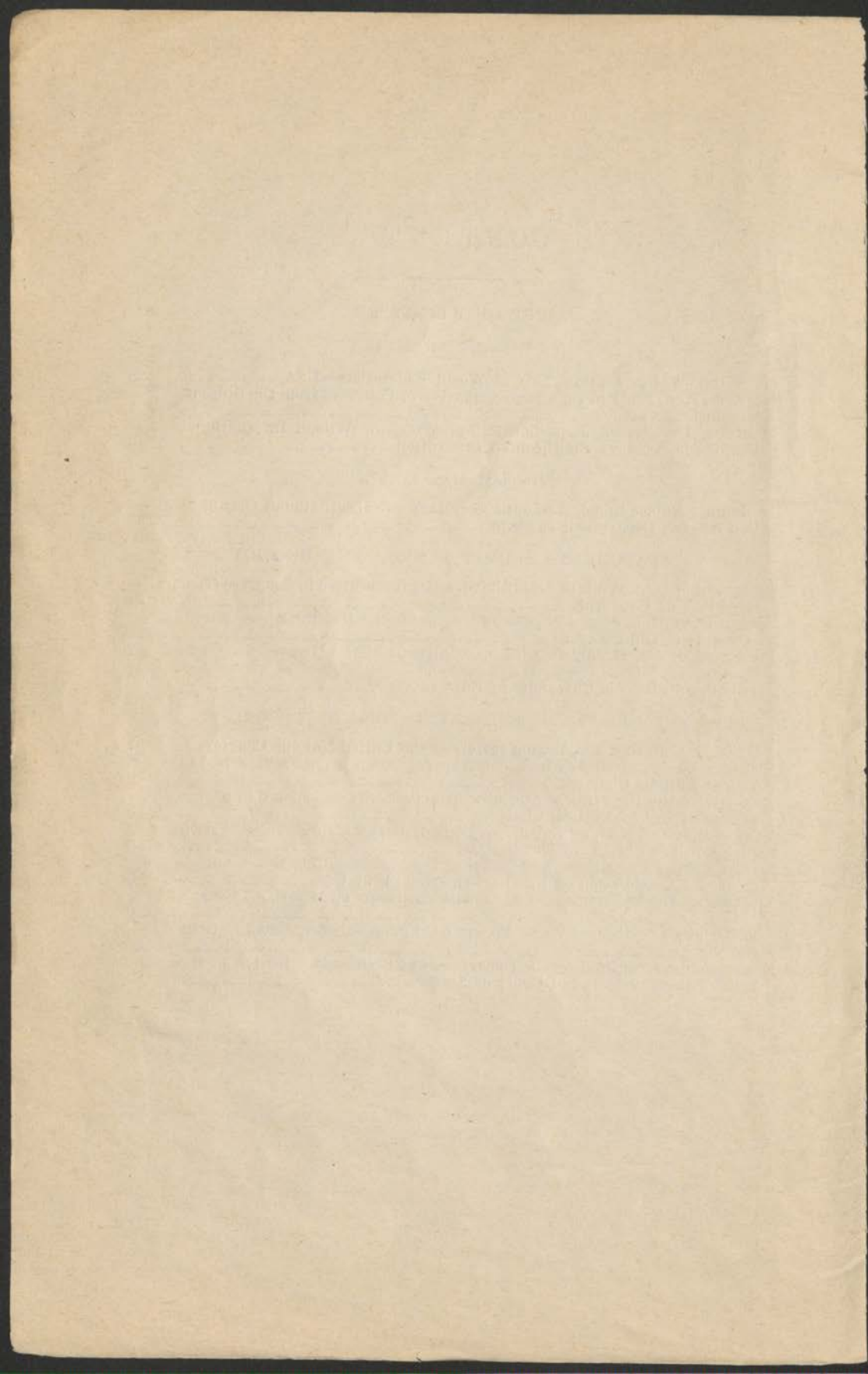
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# REVIEW OF U.N. CHARTER AND ESTABLISHMENT OF A COMMISSION ON U.S. PARTICIPATION IN THE UNITED NATIONS

THURSDAY, APRIL 27, 1972

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
SUBCOMMITTEE ON INTERNATIONAL  
ORGANIZATIONS AND MOVEMENTS,  
Washington, D.C.

The subcommittee met at 2:10 p.m., in room 2200, Rayburn House Office Building, Hon. Donald M. Fraser (chairman of the subcommittee) presiding.

Mr. FRASER. The meeting of the subcommittee will come to order.

Today the subcommittee begins consideration of two pieces of legislation concerning the review of the United Nations Charter and the U.S. participation in that organization.

House Concurrent Resolution 258 was introduced in April 1971, by Congressman William L. Hungate and today there are 131 cosponsors. The resolution requests the President to initiate high-level studies in the executive branch to determine what changes should be made in the United Nations Charter.

Congressman William S. Mailliard, on March 29, 1972, introduced House Joint Resolution 1143, calling for the establishment of a commission to review U.S. policy and participation in the United Nations. To date, there are 42 cosponsors of that measure.

This subcommittee has a continuing special interest in proposals improving the effectiveness of the United Nations, both structurally and operationally, beginning with hearings held last October on the recommendations of the Lodge and Katzenbach Commissions on the United Nations. Congressmen Hungate and Mailliard and their cosponsors should be commended for the initiative they have taken in searching for new ways in which to make the United Nations more effective for world peace and prosperity.

At this point, we will submit for the record the texts of House Concurrent Resolution 258 and House Joint Resolution 1143, the list of cosponsors, as well as the reports from the Department of State on both measures.

(The documents referred to follow:)

[H. Con. Res. 258, 92d Cong., first sess.]

## CONCURRENT RESOLUTION

Whereas the United Nations General Assembly voted on December 11, 1970, to request the Secretary General "to invite Member States to communicate to him, before 1 July 1972, their views and suggestions on the review of the Charter of the United Nations" (General Assembly Resolution 2697 (XXV)): Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—*

(1) The United States should continue in its historic role of providing world leadership in working for modernization and reform of the United Nations, and

toward the establishment and preservation of a civilized family of nations in accordance with the highest aspirations of mankind.

(2) The President is hereby requested to initiate high-level studies in the executive branch of the Government to determine what changes should be made in the Charter of the United Nations, to promote a just and lasting peace through the development of the rule of law, including protection of individual rights and liberties as well as the field of war prevention. The President is further requested to report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives before March 31, 1972, the results of such studies.

(3) The Government of the United States should support the formal calling of a conference to review the United Nations Charter in accordance with article 109 of the charter, not later than 1974.

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LIST OF SPONSORS OF LEGISLATION URGING REVIEW OF THE U.N. CHARTER (131 TOTAL) AS OF APRIL 27, 1972

H. Con. Res. 80, 258, 259, 322, 324, 355, 366, 442, 454, 455, 461, 463, 464, 473, 506, 508, 511, 515, 536, 581.

Ms. Abzug	Mr. Frelinghuysen	Mr. Mikva
Mr. Adams	Mr. Frenzel	Mr. Minish
Mr. Addabbo	Mr. Fulton	Mr. Mitchell
Mr. Anderson (Calif.)	Mr. Galifianakis	Mr. Monagan
Mr. Anderson (Ill.)	Mr. Garmatz	Mr. Moorhead
Mr. Andrews	Mr. Gettys	Mr. Morse
Mr. Baker	Mr. Gibbons	Mr. Moss
Mr. Begich	Ms. Grasso	Mr. Murphy (N.Y.)
Mr. Bevell	Mr. Gude	Mr. Nix
Mr. Boland	Mr. Hagan	Mr. Pepper
Mr. Bolling	Mr. Halpern	Mr. Pike
Mr. Brademas	Mr. Hanley	Mr. Preyer
Mr. Brasco	Ms. Hansen (Wash.)	Mr. Price (Ill.)
Mr. Brown (Mich.)	Mr. Hansen (Idaho)	Mr. Rangel
Mr. Buchanan	Mr. Harrington	Mr. Rees
Mr. Burlison (Mo.)	Mr. Harvey	Mr. Reuss
Mr. Burton	Mr. Hastings	Mr. Rodino
Mr. Carey	Mr. Hathaway	Mr. Roe
Ms. Chisholm	Mr. Hechler	Mr. Rosenthal
Mr. Clark	Mr. Helstoski	Mr. Roy
Mr. Collier	Ms. Hicks (Mass.)	Mr. Roybal
Mr. Cordova	Mr. Hogan	Mr. Runnels
(Commissioner, P.R.)	Mr. Horton	Mr. Sarbanes
Mr. Cotter	Mr. Howard	Mr. Scheuer
Mr. Coughlin	Mr. Hungate	Mr. Schwengel
Mr. Daniels	Mr. Johnson (Pa.)	Mr. Seiberling
Mr. Danielson	Mr. Kastenmeir	Mr. Sikes
Mr. Dellums	Mr. Kemp	Mr. Sisk
Mr. Denholm	Mr. King	Mr. Smith (N.Y.)
Mr. Dent	Mr. Kuykendall	Mr. Steele
Mr. Dingell	Mr. Leggett	Ms. Sullivan
Mr. Donohue	Mr. Lent	Mr. Symington
Mr. Drinan	Mr. Link	Mr. Thompson (N.J.)
Mr. Dulski	Mr. Long (Md.)	Mr. Thone
Ms. Dwyer	Mr. McClory	Mr. Veysey
Mr. Edwards (Calif.)	Mr. McCloskey	Mr. White
Mr. Erlenborn	Mr. McCormack	Mr. Widnall
Mr. Esch	Mr. McDade	Mr. Wiggins
Mr. Evans (Tenn.)	Mr. Mann	Mr. Williams
Mr. Fascell	Mr. Mathias	Mr. Wilson, Charles H.
Mr. Findley	Mr. Matsunaga	Mr. Wolff
Mr. Flowers	Mr. Mayne	Mr. Wydler
Mr. Foley	Mr. Mazzoli	Mr. Yates
Mr. Forsythe	Mr. Michel	Mr. Yatron



DEPARTMENT OF STATE,  
Washington, D.C., November 30, 1971.

HON. THOMAS E. MORGAN,  
Chairman, Committee on Foreign Affairs,  
House of Representatives.

DEAR MR. CHAIRMAN: Thank you for your letter of September 27, 1971, requesting the comments of the Department of State on House Concurrent Resolutions 80, 258, 259, 322, 324, 355, 366, all of which advocate the holding of a U.N. Charter review conference. All seven resolutions also request the President to initiate high-level studies in the Executive Branch to determine what changes should be made in the Charter and to report the results of such studies to the House Foreign Affairs Committee and to the Senate Foreign Relations Committee.

To amend the Charter, an absolute two-thirds vote of the membership is required, and for any amendment to become effective it must be ratified by two-thirds of the membership, including the five permanent members of the Security Council. The only two proposals for amendment that have so far attracted the requisite support are those for enlarging the Security Council and the Economic and Social Council, which became effective in 1965 and which were accomplished through the regular amendment process provided under the Charter. A proposal for a further enlargement of the Economic and Social Council is before the 26th General Assembly on the recommendation of the Council. The Department knows of no other proposals for change on which anything approaching a favorable consensus has yet developed.

To attempt comprehensive review and amendment of the Charter in these circumstances would, in the Department's view, be more likely to lead to serious frustrations than to constructive results. Any fundamental changes that might attract the necessary absolute two-thirds vote in the conference, for example, abolition of the veto or giving the Assembly mandatory powers, would almost certainly fail in the ratification process; while those that might be considered desirable by the larger powers, some system of weighted voting in the Assembly, for example, could not realistically be expected to obtain the requisite vote for adoption.

The Department recognizes the shortcomings of the United Nations and the need to strengthen it, but believes that these shortcomings derive more from the policies of member states than from the provisions of the Charter. Rather than initiating actions seeking to convene a Charter Review Conference as called for by this resolution, the Department believes it would be more productive to focus on steps that might be taken to strengthen the United Nations under the present Charter and on such possible amendments as may be practical under the Charter's regular amendment procedure. With a view to implementing those recommendations that are found to be practicable, the Executive Branch currently is studying the recent report of the President's Commission for the Observance of the 25th Anniversary of the United Nations headed by Ambassador Henry Cabot Lodge and, also, the report of the United Nations Association's National Policy Panel headed by Nicholas Katzenbach.

Efforts at reform under the existing Charter already have been made. The United States took the lead in the Economic and Social Council this year in reviewing and acting on measures to improve the organization and the work of the council. Decisions resulted to create committees on science and technology and on review and appraisal of the Second Development Decade and to recommend to the Assembly the enlargement of the Council itself. These are useful steps which we hope will be endorsed by the 26th Assembly. Another U.S. initiative would have the Assembly establish a committee to consider the role of the International Court of Justice. The report of the Special Committee on the Rationalization of the Procedures and Organization of the General Assembly (established by the 25th General Assembly) fell far short of our hopes, despite active U.S. participation, but the improved effectiveness of the General Assembly remains an important U.S. goal. Another major U.S. goal is agreement on measures for improved peacekeeping procedures which we are seeking through active participation, in the Assembly's Special Committee dealing with this critical matter.

Despite the regrettably slow progress that has been achieved in seeking specific improvements under the present Charter, the Department believes it is unrealistic to expect member states to go further at this time in rewriting the Charter than they are prepared to go under the Charter as it is. Of course, this focus on specific improvements under the present Charter is not intended to preclude



adoption of more far-reaching Charter amendments than can attract the requisite support under the regular amendment process. Very careful examination will be given to the replies, due next July, to the Secretary-General's request for views and suggestions of member states on UN Charter review to see what prospects they may offer. The preparation of U.S. comments will, of course, include careful consideration of the views of the Congress and any new factors affecting the prospects for a review conference.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely yours,

DAVID M. ABSHIRE,

*Assistant Secretary for Congressional Relations.*

[H.J. Res. 1143, 92d Cong., second sess.]

**JOINT RESOLUTION** Establishing a Commission on United States participation in the United Nations

Whereas the President established the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations by Executive Order 11546 on July 9, 1970; and

Whereas fifty eminent citizens, including eight Members of the Congress, under the chairmanship of the Honorable Henry Cabot Lodge, held nationwide hearings and submitted their comprehensive report and recommendations to the President on April 28, 1971; and

Whereas the President expressed to the Chairman his pleasure and gratification with the report of the Commission; and

Whereas the President is to be commended for establishing the Commission, and the Commission to be commended for its diligent efforts and its constructive recommendations for modernizing the United Nations and for improving participation by the United States therein; Now, therefore, be it

*Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled*, That (a) there is established a commission to be known as the Commission on United States Participation in the United Nations (hereinafter in this joint resolution referred to as the "Commission") to be composed of nine members as follows:

(1) Two Members of the Senate appointed by the President of the Senate from members of the Committee on Foreign Relations, one of whom is a member of the majority party and one a member of the minority party.

(2) Two Members of the House of Representatives appointed by the Speaker of the House from members of the Committee on Foreign Affairs, one of whom is a member of the majority party and one a member of the minority party.

(3) Five members appointed by the President of the United States from among outstanding citizens in private life known for their intimate knowledge of the United Nations and of the United States role therein.

(b) The Commission shall from time to time select one of its members to serve as Chairman.

(c) Any vacancy in the membership of the Commission shall not affect its powers, but shall be filled in the same manner as in the case of the original appointment.

(d) Five members of the Commission shall constitute a quorum for the transaction of business.

**SEC. 2.** It shall be the duty of the Commission—

(1) to assist the President in his efforts to make full constructive use of the report of the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations;

(2) to conduct a continuing review and appraisal of the organization, operation, and unrealized potential of the United Nations and its specialized agencies, of the International Court of Justice, and of the United States role therein; and

(3) to report periodically, but not less than once every six months commencing not later than one year after the date of enactment of this joint resolution, to the President, the Congress, and the American people its assessment, criticisms, and recommendations with respect to—

(A) the implementation of the recommendations of the President's Commission for the Observance of the Twenty-fifth Anniversary of the United Nations and of future similar Presidential or congressional commissions;

(B) the organization, operation, and unrealized potential of the United Nations and its specialized agencies, of the International Court of Justice, and of the United States role therein; and

(C) the fulfillment by the United States of its solemn obligations under the Charter of the United Nations, the charters of the specialized agencies, and the statute of the International Court of Justice.

SEC. 3. Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint and fix the compensation of such staff personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(2) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed \$100 a day for individuals.

SEC. 4. (a) Each member of the Commission who is a Member of the Congress shall serve without compensation in addition to that received for his services as such a Member, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him when actually engaged in the performance of his duties as a member of the Commission.

(b) Each member of the Commission appointed from private life shall receive compensation at the rate of \$100 a day when actually engaged in the performance of his duties as a member of the Commission, and shall be reimbursed for travel, subsistence, and other necessary expenses incurred by him in the performance of such duties.

SEC. 5. The Commission is authorized to request from any department, agency, or independent instrumentality of the United States any information and assistance it deems necessary to carry out its duties under this joint resolution; and each such department, agency, or instrumentality is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information and assistance to the Commission upon request made by the Chairman or any member acting as Chairman.

SEC. 6. To carry out the provisions of this joint resolution there is authorized to be appropriated, for the fiscal year in which this joint resolution is enacted, not to exceed the sum of \$150,000 and, for each fiscal year thereafter, such sum as may be necessary.

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LIST OF SPONSORS OF H.J. RES. 1143, 1144, AND 1176 (42 TOTAL) AS OF APRIL 27, 1972

Mr. Badillo	Mr. Hansen (Idaho)	Mr. Morse
Mr. Bingham	Mr. Harrington	Mr. Mosher
Mr. Carey	Mr. Helstoski	Mr. Moss
Mr. Dellums	Mr. Hicks (Wash)	Mr. Pepper
Mr. Derwinski	Mr. Horton	Mr. Podell
Mr. Diggs	Mr. Keith	Mr. Rangel
Mr. Drinan	Mr. Leggett	Mr. Rodino
Mr. Eilberg	Mr. Lloyd	Mr. Roy
Mr. Forsythe	Mr. Mailliard	Mr. Ryan
Mr. Frenzel	Mr. Mazzoli	Mr. Scheuer
Mr. Garmatz	Mr. Meeds	Mr. Seiberling
Mr. Gibbons	Mr. Miller (Calif)	Mr. Symington
Mr. Gude	Mrs. Mink	Mr. Vander Jagt
Mr. Halpern	Mr. Monagan	Mr. Ware



DEPARTMENT OF STATE,  
Washington, D.C., May 1, 1972.

HON. THOMAS E. MORGAN,  
*Chairman, Committee on Foreign Affairs,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: I refer to your letter of April 25, 1972 requesting comments on H.J. Res. 1143 and 1144, "Establishing a Commission on United States Participation in the United Nations."

The Department of State shares the view expressed in the bill that the Lodge Commission made a fresh and distinctive contribution in appraising the problems and performance of the United Nations system and recommending constructive proposals for its modernization, as well as for improved participation by the United States.

At the direction of the President, we have been giving close and careful attention to the recommendations. Some have already been implemented. Others require action by one of the organs of the UN system, necessitating extensive and persistent efforts by our representatives to marshal the support of other delegations. Others are still under consideration, in some cases in coordination with other departments and agencies of the United States Government whose interests are involved.

We have already made an interim report to a Congressional committee on our progress in implementing the recommendations of the Lodge Commission and would be prepared to make further progress reports at the pleasure of Congress.

In carrying forward the process of review and appraisal of the organization and operation of the UN system and the United States role therein, we anticipate valuable assistance and guidance from the Advisory Committee on International Organizations which will shortly be reconstituted. With a membership of over twenty private citizens appointed by the Secretary, the Committee's purpose is to provide a two-way channel between the Department and the public—advising the Department on how best to assure a strong and responsive United Nations that has the confidence of the American people and the Congress, and helping to present to the people and the Congress the problems and opportunities deriving from American participation in the United Nations system. You will recall that the Lodge Commission recommended the establishment of such a body.

We fully share the objectives of the sponsors of the resolutions; it is clearly in our national interest to help the United Nations improve its performance and realize its potential for building a better world. However, we have difficulty in envisaging a significant role for another Commission of a permanent nature, charged with reviewing generally the operation of the United Nations system and specifically the implementation of the Lodge Commission report. With limited staff available, we foresee difficulties in providing adequate support both to the Advisory Committee and to the proposed congressional-citizens commission. Moreover, we question whether a permanent commission however talented and prestigious could issue each six months a meaningful report which would commend the attention of the President, the Congress and the public.

The Department believes that it would be more practical and fruitful to constitute a Presidential commission on the United Nations at longer intervals, perhaps once in each administration as proposed in the Lodge report. Such a commission could conduct reviews in depth with sufficient intervening time to provide perspective on changing national priorities and changing conditions of the UN system.

The Office of Management and Budget advises that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

DAVID M. ABSHIRE,  
*Assistant Secretary for Congressional Relations.*

Mr. FRASER. Our first witness will be Congressman Hungate, who has demonstrated a long and constructive interest in the United Nations and represents a very positive force for effective congressional work.

We are glad to have you here this afternoon.



# STATEMENT OF HON. WILLIAM L. HUNGATE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MISSOURI

Mr. HUNGATE. Mr. Chairman, permit me to express my deep appreciation and that of the sponsors to appear here today.

I would like to submit for the record my 22-page statement, and I will endeavor to be sure my summary is not longer than my statement and I will skim through here if I may.

Mr. FRASER. Without objection, we will put your entire statement in the record.

(The prepared statement follows:)

## STATEMENT OF CONGRESSMAN WILLIAM L. HUNGATE

Mr. Chairman, I appreciate the opportunity to appear today before this distinguished Subcommittee in support of my resolution (H. Con. Res. 258, etc.) urging review of the United Nations Charter.

In length my resolution is not very big, but its hopes are large—to bring about a renewed interest in invigorating the United Nations so that it may achieve the humanitarian purpose of serving as an instrument of world peace.

On line 14, Page 2, of the resolution, it sets a deadline for the President to report to the Congress on possible Charter revision before March 31, 1972. Of course, this date has passed; however, I believe when the Administration appears before this Subcommittee they might be able to offer a reasonable date so that the United States will be able to submit its views to the Secretary General prior to 1 July 1972, the deadline set in General Assembly Resolution 2697 (XXV). And, otherwise I would urge this Subcommittee to fix a date not later than June 15, 1972.

While the position of the United States appears to be that procedural changes and alterations such as those suggested in the report of the President's Commission on the Observance of the 25th Anniversary of the United Nations take precedence over tackling the problem of possible Charter revision, I believe that we cannot afford to discount any means to revitalize the United Nations, including Charter review.

And, there are many of us who see Charter revision as a prerequisite of any productive reform of the United Nations.

One of the most crucial areas of Charter reform possibilities is in the voting procedures.

Some of the objections to the existing voting rules were emphasized in a report from Denmark:

On January 1, 1969, there were 45 member countries with less than 3½ million total inhabitants. With a total membership (at that time) of 126 countries, 43 small countries numbering 70 million people could overthrow a vote in which a two-thirds majority was required, provided that countries with widely different points of view and "allegiances" voted alike.

It is, of course, possible for the smaller countries to pool their votes. The two-thirds majority is required only of countries present and voting so that non-voting countries are not reckoned, cf. par. 88 of the rules of procedures of the General Assembly. In practice, the smaller countries, although representing less than 2 percent of the world's population will be able to prevent a decision on an important issue.

It has been argued, with some weight, that the existing voting rules are neither just nor democratic; they give citizens of small countries far greater influence than those of larger countries. It is remarkable that the bulk of the North American Continent is represented by only two countries, the USA and Canada, each holding one vote, while the Continent of Africa is divided into some 35 independent states also holding one vote each—a state of affairs which derives from the colonization of areas outside Europe. The USA with its 200 million inhabitants, India with 471 million and the USSR with 234 million each have only

one vote (though the USSR holds two extra votes), while the African states with 235 million inhabitants hold 35 votes. This is definitely an anomaly in terms of democracy as well as equity.

Member states generally pay their contributions to the United Nations' normal budget in proportion to national per capita income. The one-country-one-vote system implies that countries paying less than 3 percent of the budget (23rd General Assembly 1968) can muster a simple majority while countries paying only 4.31 percent can muster a two-thirds majority and the ten largest contributors holding only 8 percent of the total vote paid 76 percent of the organization's expenses.

Hence, the smallest countries could make decisions imposing tasks on the organization to which they would contribute nothing or very little. This could in itself imply a dissipation of responsibility seeing countries imposing tasks on an international organization should be able to contribute to the realization of such tasks. In other words, there should be a realistic relationship between voting rights and effective capabilities.

It is interesting to compare the United Nations with other international organizations. The principle of one-country-one-vote is not applied to all such organizations, a number of them have adopted a weighted allocation of votes according to specified criteria.

International organizations with weighted voting may be divided into two groups: (1) organizations serving a defined purpose, and (2) political organizations.

Common to international organizations serving a limited practical purpose is that votes are allocated to member countries in relation to their interest in the organization's purpose. This system seems to function well, there is no evidence of any special difficulties.

For example, the International Sugar Council and the International Wheat Council both use weighted allocation of votes. In these two organizations votes are divided into two equal parts, one for importing and one for exporting countries. Each part is distributed in proportion with the imports or exports of the individual countries. Decisions are made by simple majority, but there must be a majority in both groups.

Much more relevant for an evaluation of weighted voting is the system adopted by the International Bank for Reconstruction and Development and the International Monetary Fund. In both organizations 250 votes are allotted to each country plus one vote for every 100,000 US dollars subscribed. The amount of share in the IBRD and quotas in the IMF is based on national income, foreign trade, etc., of the member countries. In votes, account is also taken of the member's current position vis a vis the IBRD or IMF.

In these two organizations, influence is thus related to economic ability, etc. including drawings on the IBRD/IMF.

Examples of international political organizations are the Council of Europe and the European Economic Communities.

The Council of Europe has a Committee of Ministers and a Consultative Assembly. The Committee of Ministers is an intergovernmental body. Apart from its competence and its permanent status it is not different from traditional diplomatic conferences.

Each member country appoints one representative. Decisions, such as recommendations to governments, must be unanimous. Decisions of less significance may be taken by a two-thirds majority vote or, in certain cases, by simple majority.

The Consultative Assembly is the parliamentary organ of the Council of Europe. Its composition and working procedures are like those of a national parliament although it has no legislative authority. Each member country has been allotted a number of votes which is roughly proportional with its population, though with a certain preponderance for smaller countries.

The votes are distributed as follows:

Austria	6	Italy	18
Belgium	7	Luxembourg	3
Cyprus	3	Netherlands	7
Denmark	5	Malta	3
France	18	Norway	5
Federal Republic of Germany	18	Switzerland	6
Greece	7	Sweden	6
Iceland	3	Turkey	10
Ireland	4	Great Britain	18



Decisions of the Consultative Assembly consist of recommendations, resolutions, statements and directives. A recommendation or statement addressed to the Committee of Ministers requires a two-thirds majority of the votes cast (by roll call). Hence, the four largest countries, France, the Federal Republic of Germany, Italy and Great Britain cannot decide a vote alone. Resolutions and directives require only a simple majority. A resolution is an expression of the Assembly's opinion and is transmitted only to the organization it concerns. A statement is adopted in response to a request from the Committee of Ministers. Directives contain instructions for the President of the Assembly or its committees or for the Secretary-General.

Votes are cast by individuals on their own behalf—not, as in the United Nations, in accordance with government instructions.

The provisions governing institutions of the European Economic Communities are contained in Articles 137–198 of the Treaty of Rome.

The governing body is the Council of Ministers on which each of the six member countries has a representative. The Council adopts the rules which, together with the Community treaties, constitute the foundation of the legal system of the Communities. The Council can make five different kinds of decisions: regulations, directives, decisions and recommendations and opinions. Regulations are binding and directly applicable to member states. Directives bind any member state to which they are addressed as to the result to be achieved while leaving to domestic agencies a competence as to form and means. Decisions are binding for the addressees named in them. Recommendations and opinions are not binding.

Conclusions of the Council may be reached according to the nature of the matter involved, unanimously, by qualified majority or simple majority. Article 148 allocates weights to the votes of the individual representatives in matters requiring a qualified majority. Germany, France and Italy have 4 votes each, Belgium and the Netherlands 2 each and Luxembourg 1. The small countries thus hold a proportionately greater voting strength than the big countries do. The distribution of votes is not in exact conformity with the relationship between population figures and national products because consideration has been given to the principle of international law concerning equal treatment of sovereign states regardless of size. The main object of this distribution of votes was to bar any one of the larger states, alone or together, from preventing qualified majority vote. The disproportionate voting weight of smaller states is also motivated by their role as mediators between the big member states. The strong influence of the Benelux states is also manifest in the composition of the Commission and that of the European Court of Justice.

Twelve votes are required for a qualified majority in the Council, but these shall be composed of the votes of at least four countries except for decisions to be made on a proposal from the Commission. In practice, the big countries have never outvoted the small countries because the Council refrains from going against the votes of one or more member states on important issues.

The Commission has 14 members appointed jointly by the governments. Unlike the Council, the Commission is an independent Community institution. Its members do not represent their respective home countries and are not allowed to accept instructions from the governments of the member countries. The Commission thus looks after the interests of the whole Community on the basis of votes in favor. All other decisions of the Parliament are made by simple majority. In important matters, however, the Commission will endeavor to obtain unanimity as far as possible. The Commission is the Community's initiating body, being responsible for submitting proposals for new rules to the Council.

The European Parliament (the Assembly) has controlling and deliberating authority. It has 142 members divided according to the size of the member states (France, Germany and Italy 36 members each, the Netherlands and Belgium have 14 and Luxembourg 6 members). These are appointed by the national parliaments. In one respect only the parliament can make decisions with binding effect: if it adopts a vote to censure by a two-thirds majority the Commission must resign as a body; in such votes at least one half of the representatives must have voted in favor. All other decisions of the Parliament are made by simple majority.

There are still no direct elections to the European Parliament, but Article 138 requires the Parliament to draw up proposals for elections by direct universal suffrage with a uniform procedure in all member states.



Of timely interest is an event that took place in France this past Sunday, April 23, when a major European Community policy question was placed before the voting public for the first time. The fact that this occurred indicates an important nation permitting its citizens to make an international decision by referendum. This could constitute an important precedent.

Since the establishment of the United Nations a number of proposals have been made for amendment of Articles 18 and 19 which deal with voting.

In a book entitled, *War or Peace*, published in 1950, Mr. John Foster Dulles proposed a voting system similar to that which is used in the U.S. Congress. Dulles proposed two votes in the General Assembly: one according to the one-country-one-vote principle and the second vote weighted by the population figures of the voting countries.

In 1950 New Zealand proposed a similar double voting, though with a weighting of votes being related to national contributions to the budget of the United Nations.

In 1961 Mr. Benjamin V. Cohen, in the Oliver Wendell Holmes' Lectures at Harvard University, proposed that an enlarged Security Council and the General Assembly should act as two chambers, so that decisions should be carried only by a majority in both chambers. For financial issues, Mr. Cohen proposed the same system of voting as in the International Bank for Reconstruction and Development.

In 1962 Mr. Hermod Lannung proposed a combination of the present system and a system of weighting based primarily on population figures, providing, however, for factors such as cultural, economic and social development to be taken into consideration as well and assuming that votes would be weighted according to individual "estimates" (as in the Council of Europe). Lannung's proposal, like that of Mr. Dulles, implies "double voting" on each item. With an electric voting system this should cause no extra trouble, because voting under both systems is registered simultaneously by a simple pressure on the voting button. However, determining the appropriate weight to each nation for cultural, economic and social development would seem at first glance impossible.

In a proposal from 1948, the "Committee to Frame a World Constitution" proposed that each member country should elect one representative for each million inhabitants. These representatives would meet in regional election assemblies to elect delegates to the General Assembly.

Under the system The World would be divided into nine regions according to geographic, economic and political criteria.

In the book, *World Peace Through World Law*, Mr. Grenville Clark and Mr. Louis B. Sohn (pointing out that under the present system the bigger nations cannot be expected to consent to wider powers for the United Nations) propose a voting system which is based on:

- (1) Each member, however small, is entitled to representation by one vote.
- (2) A reasonable upper limit to influence (votes).
- (3) Subject to these rules, votes are to be distributed according to population figures.

Assuming a membership of 99 countries it is proposed that:

The four largest countries are to have 30 votes each; the eight next largest countries are to have 15 votes each; the 20 next largest countries are to have six votes each; the 30 next largest countries are to have four votes each; the 34 next largest countries are to have two votes each; and the three smallest countries are to have one vote each.

The authors say the allocation of votes is based on the further assumption that the USA, the USSR, Mainland China and India would have equal representation.

France, Italy, Great Britain and West Germany (which is not yet a member of the United Nations), Brazil, Indonesia, Japan and Pakistan would rank as the eight next-largest countries.

The authors visualize voting only by simple or by qualified majority.

The delegates of the individual countries—after an initial period during which they would be appointed by the governments—would be elected by direct election in the countries concerned.

A consistent and democratic proposal, based solely on population without the General Assembly becoming unwieldy, is one elaborated by Mr. Aage Heyman of Denmark in "An Attempt to Define Laws and Regulations for a Commonwealth of Nations" from 1949.



Mr. Heyman proposes a degressive scale (not totally dissimilar to the principles of the progressive income tax): countries with between  $\frac{1}{2}$  and 1 million inhabitants would have one delegate to the General Assembly, (i.e., 1 vote); from 1 to 2 million 2 members; from 2 to 4 million 3 members; from 4 to 8 million 4 members; and so on.

Three main criteria can be inferred from the various proposals for weighting of votes: (1) distribution of votes based on contributions to the common activities (i.e., the U.N. budget); (2) distribution according to population figures giving a certain consideration to cultural, economic and social development; and (3) distribution based solely on population figures.

In international organizations with limited tasks or in organizations where members obtain a "benefit" or "service," e.g. the IBRD, both economically strong and weak countries appear to have accepted that influence is related to economic strength.

I understand a study was made by the State Department in 1963 in which they examined 15 different systems of weighted voting in 178 key votes taken in the General Assembly during the period 1954 to 1961. Their examination showed that every one of these key votes—viewed in the light of the national interests of the USA—would not have given as favorable a result under any of the 15 systems with weighted voting as they did under the existing system.

However, these conclusions are subject to great uncertainty, because there is no way of ascertaining how the member states would have voted under another voting system. In addition, it must be realized that of the number of votes taken, relatively few are those which a nation would consider involving a vital national interest. So counting the total number of votes and outcome indiscriminately is to some degree pointless. It must further be conceded that under any system of voting on certain issues a country will lose. It is submitted that the more equitable the voting system employed is, the better a nation and its people will accept an unfavorable decision peacefully and with good grace. In short, under any system, on certain occasions, a nation must expect adverse decisions and in some respects it can be argued that an adverse decision, fairly reached, is easier to accept than occasional favorable decisions reached by methods conceded to be unfair.

With this previous interest expressed by the State Department it would seem appropriate to restudy alternatives to the present U.N. voting system, especially in view of events since the 1963 study.

In a statement of March 26, 1968, Mr. Trygve Lie said:

"As Secretary-General of the United Nations during its first years I have had ample experience of difficulties in applying Article 109 of the Charter in order to change a union of nation states into an organization of the peoples and for the peoples themselves. The proposal to make decisions adopted by the United Nations binding on the member states, coinciding with the introduction of a graduated voting right has thus still not been accomplished. But we must not give up. The efforts to reform the United Nations and the more direct aim of a world government under world law are not incompatible. On the contrary, we must try both ways."

Former Secretary-General U Thant has advocated in the matter of ministates that a study of criteria for membership of the United Nations be undertaken with a view to introducing the necessary conditions for full membership and establishing other forms of associating ministates with the United Nations, for instance by establishing permanent missions of observers to the United Nations.

One particularly conspicuous factor is that many member countries including especially the big ones, have demonstrated a lack of will to use the United Nations—or try to use it—when their own interests or what is believed to be their own interests, are at stake. This is true not only of the USSR and the USA; other large and medium-size nations have shown the same lack of ability and will.

With the given Charter, the United Nations' ability to take action depends on the will and the ability of the member countries to use the organization.

The Charter has gotten out of step with political developments in certain respects. It was written during and immediately after World War II under conditions which were entirely different from those prevailing today.

This was stressed by Secretary-General U Thant in a speech to the "Pacem in Terris" Convocation held on February 19, 1965, where he said inter alia:



"The fact is that, though our desire for peace is undeniable, our approach to peace is often oldfashioned and more attuned to former times than to our present state. Even the United Nations Charter itself provides a good example of this. Chapter VII, for instance, an action with respect to threats to the peace, breaches of the peace and acts of aggression, plainly stems from the experience of the Axis Powers in the thirties, a kind of situation which is unlikely to recur in our world of super powers armed with hydrogen bombs amid a vastly increased number of smaller independent states.

"However, the course of history took a new turn. Alignments changed, old enemies became friends, old comrades-in-arms found themselves in opposite camps and the United Nations could not function in the way it was intended to function. The provisions of the Charter relating to action with respect to threats to peace and acts of aggression were subjected to various interpretations. I must say in all frankness that in these circumstances the Charter provisions are somewhat out of date. It is this anachronism in the Charter—the kind of anachronism which is inevitable in our changing world—that is partly responsible for the present constitutional and political crisis in the United Nations."

Many others have expressed the views of the Secretary General that the Charter does not correspond to the conditions prevailing in the world today.

But the Charter must be looked upon as a whole so that an amendment to Article 18 alone will not be a sufficient reform. An amendment of the voting rules will undoubtedly be a vital condition for strengthening of the organization's authority, seeing that voting rules are insolubly related to authority.

The U.N. Security Council is another important part of the organization that needs restudy.

Under the Charter the Security Council's overriding duties are to try to resolve disputes which may lead to war, avert war when disputes are unresolved and protect nations from interference in their internal affairs.

In the case of the India-Pakistan war the Security Council did none of these things, discharged none of its responsibilities to the peace of the world.

The India-Pakistan war was threatening for many months, but the Security Council never acted to try to dissolve any of the causes of the conflict. The outbreak of the fighting was visible for weeks, but the Security Council did nothing to prevent it.

For seven days after the frontiers had been crossed and resort to force, in violation of the Charter, had begun, the Security Council couldn't agree even to meet. When it finally did meet to see if there was anything it could do, it was immobilized by three Soviet vetoes. This is a recurring situation in the Security Council because it is intrinsically weak.

The Soviet Union was doing no more than using its Charter rights to veto the feeble call to stop the fighting. The Charter-given veto allows the Soviets to easily and legally render the Security Council futile.

Roscoe Drummond, writing in the "Christian Science Monitor" reports on the origins of the veto:

"Many seem to think that the nearly total veto was something which the United States wanted as well as the Soviet Union.

"This was inaccurate.

"The Soviets wanted an unlimited veto.

"The U.S. wanted a limited veto.

"The Soviets wanted the right to veto anything which the Security Council might want to discuss, might want to propose or might want to do.

"The United States wanted only to make sure that the U.N. Security Council could not vote the U.S. to military action against its will. Therefore it wanted to secure for itself, Russia, Britain, France and China, the right to veto, if they so wished, the use of force.

"Here is the range of the veto powers which the Soviets demanded as the Charter was first drafted at Dumbarton Oaks by the allied powers:

1. A veto over the Security Council agenda so that no item could be put on it even for discussion if the Soviets didn't want it discussed.
2. A veto to prevent the Security Council from making any peace proposals which the Soviets didn't welcome.
3. A veto over any Security Council decision to use UN peace-keeping forces to deter or resist aggression.

"The U.S. wanted neither of the first two veto powers listed above. But for fear Russia would not join the UN, the U.S. accepted the all-inclusive veto in the Dumbarton Oaks draft.



"But when this draft was put to the 50 founding nations at the San Francisco conference, most of them revolted against such a veto. They didn't want any veto for anybody. It was clear to the reporters there that the conference was at the point of break-up as the Russians refused to budge.

"At this juncture President Truman sent Harry Hopkins to Moscow to plead with Stalin to avert the collapse of the conference. He sought some slight concession on the veto.

"And got it. Stalin gave up his demand for a veto over the Security Council agenda—a minute concession which the smaller countries accepted with the Soviet assurance that it would never use the veto 'capriciously.'

"Has it? The record: the Soviet Union has used the veto 108 times; Britain, 5; France 4; the U.S., 1; Nationalist China, 1.

"In the India-Pakistan war the Security Council, which is the potential power center of the U.N., was not kept from talking, but it was kept from acting."

Charles W. Yost, in the Washington Post, writes:

"One would think by this time—after Vietnam, the Middle East, and now East Bengal—the great powers would wake up to three facts:

First, that conflicts in the Third World can rarely be settled by one of them alone.

Second, that if such conflicts are not settled, they are likely more and more to involve the interests and security of the great powers themselves.

Third, that the best place to settle them in safe and timely fashion is at the United Nations, where the great powers and the parties to the conflict are represented and where the rest of the world can cushion confrontations and help in a settlement.

"However, this will not be possible until the great powers decide to use the U.N. for the purposes for which it was set up, decide to give it more teeth for these purposes, and decide not to be afraid to ask it to intervene in 'internal affairs' if such affairs seem to provoke a wider war.

"There are few signs yet of the U.N. being given such authority. But unless it is, the 1970s may be an even more stormy decade than the last one."

When Hon. Nicholas Katzenbach and Hon. Samuel de Palma testified before this Subcommittee on October 13, 1971, they concurred in their statements that nothing could be done at this time about the Security Council and voting system.

In the words of Mr. Katzenbach:

"The Security Council, many times in the past, has been inhibited by the veto. This situation will continue. At the same time, the steady increase in U.N. membership has made of the General Assembly a body unsuited for the consideration of many questions of importance to the United States and other major powers. The United States, correctly, is unwilling to accept as having binding force, the judgment of a majority of members of the U.N. who could collectively, in theory, represent only a tiny fraction of the world's power, or of contributions to the U.N. budget. At the same time, we have written off the remedy to this, i.e. weighted voting, on the equally correct ground that a General Assembly numerical majority would probably never agree to have their power weakened."

This negativism makes me wonder if the Soviet Union had not used its veto power in the Security Council on more than 100 occasions, would the U.S. itself have used the veto. We leave it to the Russians to take the blame while we may be almost as guilty of not exerting every effort to make the peace-keeping functions of the United Nations work.

Rightly, I think Mr. Katzenbach realizes that increased authority in the General Assembly would have to go hand in hand with a weighted voting system. But the problem remains that if the United Nations is to work its decisions must be binding on its members. Therefore, we must assume some leadership in finding an equitable system of voting and a way to alter the veto power in the Security Council.

We waste an awful lot of time, paper and discussion on the U.N. but nothing will change unless we confront the fundamental problems that make the organization almost inoperable in the area of its primary purpose to keep peace and settle disputes peacefully.

General Carlos P. Romulo, of the Philippines, who was a signer of the United Nations Charter, is also one of the leading proponents of Charter revision.

Among several suggestions for Charter revisions, General Romulo addresses himself to the problems of the International Court of Justice:



"The Statutes of the International Court of Justice, constituting as they do an integral part of our Charter, should also be subject to review. In particular, the UN should be recognized in the Statutes as a legal entity entitled to bring a case before the Court against any State provided that the State has accepted a jurisdictional clause to that effect and is accorded reciprocal rights. Additionally, the Court should be given the right to determine whether a gross violation of world law has occurred. The general decline of the Court has been universally noted. It is therefore necessary to find the proper manner in which to relate the Court much more closely and effectively to the maintenance of international peace and security so that it may assume its rightful place as the principal judicial organ of the United Nations functionally, and not just theoretically."

Of the Lodge Commission's report, the American Bar Association's Journal offers the following critique:

"It is a keen disappointment. Perhaps because it was thought that recommendations had to command agreement by all fifty members of the commission, the result is a report of broad generalities which takes positions that seem to represent the least common denominator on all troublesome issues.

"Although some of the recommendations are perhaps unexceptionable, there is no analysis of the problems of the present system or discussion of the difficulties that might be expected from the recommendations that are made. For example, in a five-page section on the International Court of Justice, the commission points out the striking circumstance that: 'Except for a request by the security council for an advisory opinion on Namibia, the docket of the International Court of Justice, the principal judiciary organ of the United Nations, is empty.'"

"But what are the commission's recommendations to cure this problem fundamental to the continued viability of the court? Well, the Commission says that the court should revise what are characterized as 'archaic procedural rules and the practice and attitude of the court', without giving any specific examples of what is wrong. The commission also says that the court should be transformed into an advisory institution as well as a decision-making body, but there is not discussion of the question whether the consequences of such a step might not be that all the court's decisions would come to be regarded as advisory.

"It is to be hoped that the President will not take the vagueness and unsatisfactory nature of this report as an excuse for inaction. There remain the hard problems of making the United Nations and the international court of justice effective. The President should request further detailed study and analysis of these problems by Federal agencies and officials, lawyers, private citizens and institutions interested in the welfare of the United Nations. Perhaps from these concerted efforts, meaningful reforms can be proposed and effected so that the United Nations can truly become, as the American public still regards it, 'the last best hope of peace.'"

That is the purpose of this resolution.

Regarding the International Court of Justice, I would add that it should have jurisdiction to hear cases between individuals of different nations, perhaps limited as to amounts and issues, but a people-related court. If our own Federal courts only heard questions and cases between states their docket congestion would be relieved, but many real human cries for justice would go unheard.

In an address by the former Chief Justice of the United States Earl Warren to the fifth international World Peace Through World Law Conference at Belgrade, Yugoslavia, in 1971, he stated:

"There is no more flagrant example of the disregard of nation-states for world order than the chronic under-employment of the International Court of Justice.

"Increasing use of the court would be one of the clearest indications of the movement away from international lawlessness. It would be an appropriate expression of a new will to strengthen, through use, international machinery for the peaceful settlement of disputes.

"This new will must also find expression in the United Nations Security Council. Until now, resort to the Security Council usually has been withheld until violence is imminent or in progress. The Council needs to develop methods—and the habit—of helping parties to a dispute reach an agreement before the onset of violence.

"There is also a tendency to avoid difficult solutions in the absence of crisis and, when violence occurs, to go no further than to freeze the dangerous status quo. This is a prescription for the continuation of the tension. There are many



ways to strengthen the peaceful settlement role of the Security Council, once there is the will on the part of the member states to do it.

"It is time for us to become impatient with the failure of nation-states to provide the United Nations with standing forces to carry out peacekeeping functions. This was a major promise made by the signers at San Francisco . . .

"Problems such as abuse of the environment, management of seabed resources, modification and control of climate, genetic modification activities, the use of outer space, satellite communications (and I would add such international crimes as skyjacking and illegal drug traffic) all will require some multinational framework for solution . . .

"The halting steps we have taken thus far suggest that we may yet be able to run. We can have progressively stronger international institutions. We can endow them with peacekeeping powers sufficient to restrain not only small but great states. We can assess, direct and control the power science has placed in our hands. We can have—without sacrificing wide diversity of belief, custom and structure—a single universal faith in the obligations, brotherhood, and the destiny of mankind.

"Science has made it possible for man to live bountifully upon this planet. But only man himself will civilize it and make it habitable. The United Nations provides the means for achieving greatly."

The 126 co-sponsors of this resolution in the House and the 68 co-sponsors of a similar resolution in the Senate are asking that the Congress, the Administration, the United States direct attention to the United Nations, and to make every effort to cure the ills that have rendered it ineffective.

If the United Nations did not exist in this day of instant communication, I believe the peoples of the world would create such a world organization to seek and safeguard peace between nations and to protect basic human rights which should belong to every individual throughout the world.

We cannot afford to jeopardize the goal of a lasting world peace by failing to provide the tools necessary for the United Nations to be effective in working toward this goal.

Therefore, I respectfully request this distinguished Subcommittee give our resolution your favorable consideration.

Mr. HUNGATE. Today, Mr. Chairman, it seems to us that the United Nations is like the man who had not an enemy in the world but none of his friends like him either, and we are interested to see it made into a more effective force.

Throughout the report I have relied heavily on the work in the Denmark study that they have done on new systems of voting. In here you will find statements from individuals such as John Foster Dulles in 1950 suggesting a double method of voting; the Government of New Zealand in 1950 submitted a similar proposal; Benjamin V. Cohen in the Oliver Wendell Holmes lectures at Harvard University in 1961; Hermod Lannung in 1962; former Secretary-General U Thant in 1965; Mr. Trygve Lie in 1968; Roscoe Drummond; Charles W. Yost, the American Bar Association journalist; General Carlos P. Romulo of the Philippines; and former Chief Justice Earl Warren all directed themselves toward the problems of the United Nations.

On line 14, page 2, of the resolution, it sets a deadline for the President to report to the Congress on possible charter revision before March 31, 1972, and of course this date is gone. I would hope that when the administration appears here they might offer a reasonable date so we could submit our views to the Secretary-General prior to July 1, 1972, the deadline in the General Assembly resolution. Otherwise, I would urge this subcommittee to fix a date not later than June 15, 1972.

My resolution is identical, I believe, in all respects with that of Senator Cranston except he has a June 30 deadline. The reason for my



June 15 date is realistically the administration might want 2 weeks before they submitted their resolutions on July 1.

The action is called for; it seems the time is short for consultation with Congress. I am not aware of any consultation on this subject that has been conducted by the State Department in recent months.

While the position of the United States appears to be that procedural changes and alterations such as those suggested in the report of the President's Commission on the Observance of the 25th Anniversary of the United Nations take precedence over tackling the problem of possible charter revision, I believe that we cannot afford to discount any means to revitalize the United Nations, including charter review.

There are many of us who see charter revision as a prerequisite of any productive reform of the United Nations.

To me, one of the most crucial areas of charter reform possibilities would be in voting procedures.

Now some of the objections to the existing voting rules have been emphasized in the Danish rules to which I referred.

On January 1, 1969, there were 45 member countries with less than 3.5 million inhabitants. With a total membership (at that time) of 126 countries, 43 small countries numbering 70 million people could overthrow a vote in which a two-thirds majority was required, provided that countries with widely different points of view and allegiances voted alike, although sometimes it happened.

It is, of course, possible for the smaller countries to pool their votes. The two-thirds majority is required only of countries present and voting, so that nonvoting countries are not reckoned. In practice, the smaller countries, although representing less than 2 percent of the world's population, will be able to prevent a decision on an important issue.

It has been argued, with some weight, that the existing voting rules are neither just nor democratic; they give citizens of small countries far greater influence than those of larger countries. It is remarkable that the bulk of the North American Continent is represented by only two countries, the United States and Canada, each holding one vote, while the continent of Africa is divided into 35 independent states with one vote each.

Member states generally pay their contributions to the United Nations normal budget in proportion to national per capita income. The one-country, one-vote system implies that countries paying less than 3 percent of the budget can muster a simple majority, while countries paying only 4.31 percent can muster a two-thirds majority, and the 10 largest contributors holding only 8 percent of the total vote paid 76 percent of the organization's expenses.

Now I am not suggesting that it ought to be done purely on a money basis, but it cannot be ignored, either.

Hence, the smallest countries could make decisions imposing tasks on the organization to which they would contribute nothing or very little. It is interesting to compare the United Nations with other international organizations. The principle of one-country, one-vote is not applied to all such organizations; a number of them have adopted a weighted allocation of votes according to specified criteria.



These international organizations with weighted voting may be divided into two groups: (1) Organizations serving a defined purpose, and (2) political organizations.

Some of these organizations I discuss later in the statement, and I know the subcommittee will examine it. For example: We have the International Sugar Council and the International Wheat Council; both use weighted allocation of votes.

Much more relevant for an evaluation of weighted voting is the system adopted by the International Bank for Reconstruction and Development and the International Monetary Fund. In both of these organizations 250 votes are allotted to each country, plus one vote for every 100,000 U.S. dollars subscribed. The amount of share in the IBRD and quotas in the IMF is based on national income, foreign trade, et cetera.

In these two organizations, influence is thus related to economic ability, including drawings on the IBRD/IMF.

Some examples of the international political organizations are the Council of Europe and the European Economic Communities.

I discuss at more length on page 5 of my formal statement the Consultative Assembly of the Council of Europe. There the votes run from 18 to countries such as France, Federal Republic of Germany, Italy, and Great Britain, down to, for example, 3—countries such as Luxembourg. So they have definitely weighted voting in different countries there.

Votes are cast in this Consultative Assembly by individuals on their own behalf and not as in the United Nations in accordance with government instructions.

The provisions governing institutions of the European Economic Communities are contained in articles 137—198 of the Treaty of Rome, and this organization is made up of the Council of Ministers, the Commission, the European Parliament, and the European Court of Justice.

The Council of Ministers I discuss in more detail on page 6, and the Commission and its 14 members appointed jointly by the governments is also discussed on pages 6-7, and the methods by which they make their decisions—sometimes by a qualified majority, sometimes by a simple majority.

The European Parliament, on page 7, has controlling and deliberating authority, with 142 members divided according to the size of member states: France, Germany, and Italy have 36 members each; the Netherlands and Belgium have 14; and Luxembourg has 6. This is another example that we don't have to blindly follow the one-country-one-vote principle.

It is interesting that these people are appointed by a national parliament; and in one respect only the parliament can make decisions with a binding effect: if it adopts a vote of censure by a two-thirds majority, the Commission must resign as a body, although this has never happened. All other decisions of the Parliament are made by simple majority.

There are still no direct elections to the European Parliament, but article 138 requires the Parliament to draw up proposals for elections by direct universal suffrage with a uniform procedure in all member states.



I think such a practice would be highly desirable and helpful and a real hope if we could come to that in any world organization.

I mentioned John Foster Dulles' book, "War or Peace." He proposed another system where you vote twice: once according to the one-country-one-vote principle, and the second weighted by population; and you would have to pass an issue twice before it became effective.

I have previously referred to New Zealand and the alternate methods of voting they suggest. I have discussed that at length here.

You can infer, I think, three main criteria indicated at the bottom of page 8 from these different proposals. (1) Would be distribution in the votes based on contributions to various activities for the budget; or (2) distribution according to population, but some would add to that certain consideration for cultural, economic, and social development. I would add, Mr. Chairman, I think it rather dangerous—I would hate to evaluate someone else's cultural and social development, but that is discussed by some authorities. (3) The distribution is based solely on population figures.

I understand that a study has been made by the State Department in 1963 on which they rely from time to time, in which they examined 15 different systems of weighted voting in 178 key votes in the General Assembly in the period 1954 to 1961. This showed that every one of those key votes, their report says, viewed in the light of our national interest, would not have given as favorable a result under the 15 systems with weighted voting as they did under the existing system.

But, Mr. Chairman, this 9-year-old study based on some 18-year-old statistics going back to 1954 would seem to me to need updating in view of a revised world power structure and the revised makeup of the U.N. membership in the decade from 1961 to 1971. I think the entire structure change is in both its membership and in the balance of power in the world.

I would hope they might concede that you can't tell what the outcome would have been under another system because you don't know how people would have voted under systems that were different, and you can't count all votes and tie them in blindly, just as I suppose we think it is rather unfair to do that to Congressmen. Some votes, if you will pardon me, are gut issues while others are routine, and I think that would be true in the United Nations.

On page 12, Trygve Lie's statement:

We must not give up. The efforts to reform the United Nations and the more direct aim of a world government under world law are not incompatible. On the contrary, we must try both ways.

On page 13, the former Secretary-General U Thant states that . . . our approach to peace is often old-fashioned and more attuned to former times than to our present state. Even the United Nations Charter itself provides a good example of this.

He states we were relying when we drafted the charter on the action . . . of the Axis Powers in the thirties, a kind of situation which is unlikely to recur in our world of super powers armed with hydrogen bombs amid a vastly increased number of smaller independent states.

I continue quoting him:

I must say in all frankness that in these circumstances the charter provisions are somewhat out-of-date. It is this anachronism in the charter—the kind of anachronism which is inevitable in our changing world—that is responsible for the present constitutional and political crisis in the United Nations.



I submit that the charter has to be looked upon as a whole, so that an amendment to article 18 alone would not be sufficient. The U.N. Security Council is another important part of the organization that needs study.

In the case of the India-Pakistan War, the Council took no steps to avert the war when the disputes were unresolved, and the dispute seemed to be growing over a period of time.

For 7 days after the frontiers had been crossed and force resorted to, in violation of the charter, the Security Council could not even agree to meet. When it did meet to see if there was anything it could do, it was immobilized by three Soviet vetoes. I think this is and will remain a recurring situation in the Security Council because of the intrinsic weakness of any voting system which permits a veto by any one member.

The Soviet Union was doing no more than using its charter rights to veto even the feeble call to stop the fighting. The charter-given veto allows the Soviets or any nation to easily and legally render the Security Council futile.

Roscoe Drummond has said that the Security Council, which is the potential power center of the United Nations, was not kept from talking but it was kept from acting.

Charles W. Yost, in the Washington Post, writes:

One would think by this time—after Vietnam, the Middle East, and now East Bengal—the great powers would wake up to three facts:

First, that conflicts in the Third World can rarely be settled by one of them alone.

Second, that if such conflicts are not settled, they are likely more and more to involve the interests and security of the great powers themselves.

Third, that the best place to settle them in safe and timely fashion is at the United Nations . . .

When the Hon. Nicholas Katzenbach and the Hon. Samuel De Palma testified before this subcommittee on October 13, 1971, they concurred in their statements that nothing could be done at this time about the Security Council and voting system, discussing how they had been inhibited by the veto, and I quote from Mr. Katzenbach's testimony.

Mr. Chairman, it seems to me that they have taken a negative approach, and I am wondering then if the Soviet Union had not used its veto power in the Security Council on more than 100 occasions whether the United States itself would have vetoed actions on some of these occasions. Under the present system it is possible to leave it to the Russians for the blame while we may often be just as guilty of not using every effort to make the peacekeeping function of the United Nations work.

We waste a lot of time, I think, on paper and discussion on the United Nations, and nothing will change unless we confront the fundamental problems that make the organization almost inoperable in the light of its primary purpose to keep the peace and to settle world disputes peacefully.

I refer to Gen. Carlos P. Romulo, of the Philippines; he, too, is one of the original signers of the charter calling for revision.

The American Bar Association offers—pages 19 and 20—a rather well-written critique, I think, of the failure to use the International Court of Justice. Only one case was pending at that time, and they state, and I quote:

There remain the hard problems of making the United Nations and the International Court of Justice effective. The President should request further detailed study and analysis of these problems by Federal agencies and officials, lawyers, private citizens, and institutions interested in the welfare of the United Nations.

This is the sort of request we hope to be making, Mr. Chairman, through this resolution.

Former Chief Justice Earl Warren, addressing the Fifth International World Peace Through World Law Conference at Belgrade, Yugoslavia, last year expressed the view that increasing use of the International Court of Justice would be a clear indication of the movement away from international lawlessness.

This new will must also find expression in the United Nations Security Council. Until now, resort to the Security Council usually has been withheld until violence is imminent or in progress. The Council needs to develop methods—and the habit—of helping parties to a dispute reach an agreement before the onset of violence.

Continuing:

It is time for us to become impatient with the failure of nation-states to provide the United Nations with standing forces to carry out peace-keeping functions. This was a major promise made by the signers at San Francisco . . .

So states Former Chief Justice Earl Warren.

Mr. Chairman, I thank you for this time and your courtesy to all of us. If I might, I would like to just end up with one of Manny Celler's stories about the efforts and the discouragement we sometimes feel in this effort when we see that the progress seems to be very slow.

He tells a story of a community, I guess in Israel or somewhere, and they were very poor and they wanted to do something for those less fortunate than they. They went to the synagogue, and the season came when they were giving alms and charity. They were very poor and had very little to give.

They went to the rabbi and he said:

You can do this—you all have wine at the evening meal. Instead of drinking a full glass of wine, take a half glass. We will put a cask down here in front of the temple, and you can come down and pour half a glass of wine in it each day, and when the cask is full we will make a gift to some community needier than we.

The time went by, a month or two, and the cask was full. The rabbi brought them down to the temple and they were going to have a ceremony and commit it to the cause. He opened the cask and poured a glass of wine to make a toast, and lo and behold, it was pure water!

He inquired of them, and it seemed that instead of taking down a half cup of wine each day, they had been taking a half cup of water instead and drinking all the wine themselves. The rabbi became severe and said, "Why would you do a thing like that?" and they replied, "Well, Rabbi, none of us thought just a half cup of water would hurt."

Mr. Chairman, that seems to be the case here. We must realize that some of our efforts are not too powerful and they are not too rapid, but I think just the small effort from each of us could do a great deal.

Thank you very much.

Mr. FRASER. Thank you very much. Congressman Hungate, for a very comprehensive statement. I would like to ask you some questions about this, if I may.



Mr. HUNGATE. Yes, sir.

Mr. FRASER. Maybe we would be wiser to go to the floor, respond to those bells and come back. We will recess the subcommittee and be back shortly.

(Whereupon, the subcommittee recessed.)

Mr. FRASER. We will call the subcommittee back to order.

Mr. HUNGATE. I wanted to say, first, that I think your point about the State Department analysis of the voting pattern in the United Nations is a good one. The enlargement of the membership in the Third World came to a considerable extent, if I remember correctly, in the early sixties, so that the analysis which covered 1954 to 1961—I think your statement said—wouldn't include the impact of that greatly enlarged membership.

Mr. HUNGATE. I wanted to emphasize that. Thank you, Mr. Chairman.

Mr. FRASER. On the other hand, if it goes from the other direction, is it possible to establish a case that a shift in voting power or at least using a different voting mechanism would have produced a significantly different result on some of the major issues with which we are concerned?

I am not expecting that you necessarily know, but I am just wondering if that—

Mr. HUNGATE. Mr. Chairman, I would suggest that it would be just a philosophical game, just figuring out what would have happened with a different system that did not exist.

Another thrust I guess I would want to make would be that to me the present voting balance is not equitable, not realistic, either, and that even if you have a fair system occasionally you are going to lose votes—I don't care which system you have, occasionally it would go against what you wanted to happen.

My argument would be that if the system is regarded as fair by the people of the world and their countries, that they are a lot more apt to accept unfavorable decisions, some of which I suppose will be wrong—I suppose it is like your jury system—than they are with a system in which when they do happen to lose, they regard the system as unfair anyway, and I think they are much more apt to have disrespect for the subject at issue.

Mr. FRASER. In other words, there needs to be a greater legitimacy in the eyes of the people.

Mr. HUNGATE. Yes, Mr. Chairman. I am not aware of just exactly what the State Department or other positions might be on all possibilities of amendment of the charter, but I think that two proposals for amendment have had enough support to be adopted—one in enlarging the Security Council and the Economic and Social Council.

I am not aware, however, of how many total proposals have been made seriously for an amendment of the charter. What I am trying to get to, when they sometimes seem to discourage charter amendments, the fact that there have been so few accepted in any form of amendment to the charter.

In fact, we had a judge one time who ran for reelection, he had only two cases in which he had been overruled. It turned out they had never appealed him but twice.

I mean, you have to balance that against how many serious efforts have been made, how many times in which our Government really made an effort to get an amendment of the charter.

Mr. FRASER. I think I have tried to explain informally one of the reasons that we didn't get to hearings on this proposal earlier was that we had asked the Congressional Research Service to do an analysis for us in order to identify the point at which action would have to be taken. For example, repeal of the Connally reservation to our adherence to the International Court of Justice it would not require any charter changes, since Congress itself could take this action. There are other initiatives in which Congress could play a role in prompting the Executive. We will get you a copy of that study, because I think with your obvious deep concern here you would find this of value.

One of the questions that we are looking at as we proceed with these hearings and try to identify some actions beyond that which you propose would be to look for things that we didn't initiate ourselves and which ought to be initiated by ourselves, recognizing that probably we cannot force the executive branch to take the initiative. We would like to get the benefit of your judgment on some of these proposals to see if maybe there is something which has sufficient support in the Congress.

Mr. HUNGATE. Mr. Chairman, you say these studies are ready?

Mr. FRASER. They are completed. And that is one reason we are finally now holding these hearings, because of the long delay in preparing that report.

Mr. HUNGATE. I think you make a very strong point that such matters as the Congress itself can remedy should probably be one of our priority tasks—the ones that we think could and should be done—and this would put us in a much stronger position with the Executive in advising him what he should do.

Mr. FRASER. Right. Let me thank you again for a very fine statement, and we will plan to consult with you and draw upon your own interest and expertise as we try to figure out how we can be most productive.

Mr. HUNGATE. I greatly appreciate that courtesy on the part of the committee, and I know of no committee that has any more difficult responsibilities or difficult tasks today, when Congress is seeking to regain more of the foreign policy initiative and with all the problems we have in the world, than this committee.

From ourselves and the signers of this, I want to express our appreciation to you for the very conscientious and able job that you do.

I would like to mention the gentleman—I don't need to introduce Sanford Persons of the Members of Congress for Peace Through Law—who has been very helpful to me in this effort.

Thank you again, Mr. Chairman. It is a great privilege to work with this committee, and I hope we can add to the solution of these problems.

Mr. FRASER. We will recess the committee once more, while we go to the House floor for a vote.

(Whereupon a short recess was taken.)

Mr. FRASER. We will call the subcommittee back into session.



At this point, we will insert in the record the statement of Congressman William S. Mailliard, ranking Republican member of the Foreign Affairs Committee, and Congressman John F. Seiberling, who could not appear before the subcommittee today. Also submitted for the record is the statement of Dr. Ronald J. Glassop, Chairman of the Greater St. Louis Chapter of World Federalists.

(The written statements follow:)

STATEMENT OF HON. WILLIAM S. MAILLIARD

Mr. Chairman, I welcome this opportunity to express to your subcommittee my strong support for H. J. Res. 1143/1144, which I introduced on March 29 in behalf of myself and forty-two co-sponsors.

As you know, I have long had a keen interest in the United Nations, which was founded in 1945 at an historic conference in my home city of San Francisco. In 1963, I had the honor to be a U.S. delegate to the 18th General Assembly. Together with many of my colleagues in the House, I have been concerned with developments at the U.N. I am sure we all agree that the U.N. faces serious problems.

One of these problems is a growing loss of confidence in that organization's ability to achieve its major objective—a peaceful developing world community. But, in fairness, the U.N. should not be blamed for failures resulting from the indifference or inaction of individual Member nations. This country must not turn its back on the organization it helped to found as an alternative to world conflict because it has not yet succeeded in realizing its potential for peace.

Recognizing the problems of the U.N. and the need to find solutions, President Nixon in 1970 appointed the President's Commission for the Observance of the 25th Anniversary of the United Nations. The Commission, led by the Honorable Henry Cabot Lodge, issued a report on April 23, 1971, with nearly 100 excellent recommendations for improving the U.N. and American participation in it.

If we are to help the U.N.—and not just criticize it—we must provide the means to focus informed public attention and support upon this beleaguered institution. The Commission that I have proposed be established would help to implement the Lodge Commission proposals. It would provide a continuing forum for considering the implementation of U.S. policies and programs toward the U.N. and its agencies.

I cannot, of course, predict how much the Commission would accomplish. But at least it would be a useful building block that might help us move closer to the fulfillment of the U.N.'s bright promise to the world of 25 years ago.

Removed from the daily pressures of the legislative process, it would be in a position to make recommendations and provide guidance to those responsible for policy formulation, implementation and oversight as it concerns the U.N.

Specifically, the Commission—if established—would:

1. Provide increased leverage for focusing both Congressional and public attention on vital U.N.-related issues.

2. Provide a vehicle through which the importance of U.N.-related issues in American foreign policy could be stressed. Not the least of the positive consequences could be the strengthening of the Bureau of International Organization Affairs at the Department of State and steps to enhance its stature in the Department and the Executive Branch. One of the first projects of the Commission might well be consideration of the creation of a post of Under Secretary for International Organization Affairs, as well as a re-appraisal of the conduct of multi-lateral diplomacy in the Executive Branch.

3. Open the dialogue between public and Congressional members of the Commission on U.N. issues.

4. Provide an additional but unique forum to focus on the U.N., while independent from Congressional or Executive constraints.

5. Respond to concern in the international community that the Executive Branch has made the U.N. a low priority in the foreign policy area.

For these reasons I hope that this subcommittee will support the joint resolution.



## STATEMENT OF CONGRESSMAN JOHN F. SEIBERLING

Mr. Chairman: I appreciate the opportunity to comment on the resolutions before this Subcommittee. I am a cosponsor of H.J. Res. 1143, to establish a Presidentially-appointed Commission to review U.S. participation in the United Nations and of H. Con. Res. 258, to provide for an Executive-level study of the UN Charter to make recommendations to a United Nations Conference on review of the Charter.

At its founding in 1945 the United Nations was a revolutionary concept. The organization is now more than 25 years old. The concept of a world body as a forum for the peaceful solution of problems is no less revolutionary today. In considering the resolutions before us, I think it is important to look at the role of the United States in the UN today and what establishment of these Commissions would mean. I particularly want to stress the importance of a Commission to study U.S. participation in the UN, as I think this is vital and preliminary to a Charter review.

The Vietnam involvement has had a significant effect on present U.S. attitudes toward isolationism. The American people are obviously tired of international commitments which drain our resources while problems at home are neglected. They are tired of trying to solve the world's problems—efforts which cause more problems for the United States. Not only have we spent billions of dollars and lost 55,000 American lives in pursuit of our unilateral foreign policy goals in Vietnam, but this policy represents perhaps the first U.S. action which has been widely condemned in the world community.

What we need to realize at this juncture is that downgrading our role in the UN and withdrawing from our international responsibilities will not prevent future military involvements like Vietnam, nor will it solve domestic problems. In fact, it will tend to force the U.S. to rely on unilateral actions which may well embroil us in a similar conflict in the future.

It is significant that the cost to each U.S. citizen for our share in maintaining the UN and its special agencies was a mere \$1.57 in 1970, while military expenditures amounted to \$373 per person. We should be willing to put a far greater amount into the peacekeeping activities of the UN so it will be possible to reduce the cost of future military budgets.

It is important to remember that the UN is only a tool to be used in seeking a peaceful world order and that it is only as useful as its members make it. As the President's Commission for the Observance of the 25th Anniversary of the UN stated in its report, "The disappointing record of the UN in resolving disputes does not stem from lack of machinery but from the unwillingness of states to submit to the judgment of the UN . . ."

The U.S. is not alone in its unwillingness to submit its international problems to the UN. As Richard N. Gardner wrote in the July 1970 issue of *Foreign Affairs*.

Virtually all members pay lip service to the United Nations while at the same time pursuing their short-term national interests, often at its expense . . . This has always been true of the Soviet Union. What is profoundly disquieting, however, is that it is becoming increasingly true of other countries, including the United States. For example, the United States only asked itself how the United Nations could help it to do what it wanted to do in Vietnam—it never seriously asked itself how it should conform its Vietnam policy to its UN commitments. With few exceptions, UN members ask what the United Nations can do for them, not what they can do for the United Nations—or for the building of a civilized system of collective security and world order.

In an April 24, 1972 press briefing at UN Headquarters, Secretary General Kurt Waldheim discussed this lack of effectiveness in relation to a question about his offer to both the North Vietnamese and the United States to help in obtaining a negotiated settlement of the Vietnam conflict.

The member states should not come to . . . the United Nations, and complain as they did in the past that we are not doing anything . . . We can only act . . . if the governments cooperate with us. I always say I am ready to help. But . . . I need the cooperation of the governments; if the governments concerned do not wish such good offices, well, then, it is up to them. They should not criticize the United Nations.

I am increasingly concerned about the attitude in this Administration and the Congress which blames the UN for ineffectiveness, but does nothing to make it



more effective. Neither the North Vietnamese nor the U.S. responded to the Secretary General's offer of assistance in settling the Vietnam conflict.

The Nixon Administration has increasingly relied on unilateral action to deal with international problems. A case in point is the appeal from the East Pakistanis last year during the bloody repression of elected officials by the West Pakistani regime. The U.S. and all other nations failed to bring this issue before the Security Council until it was too late and war became inevitable. The Secretary General repeatedly urged the membership to consider the problem in the Security Council, but he does not have the authority to call a meeting of that Body, though every member has. I do not think this shows a weakness of the UN, contrary to the statement of Mr. Samuel De Palma, Assistant Secretary of State for International Organization Affairs in a paper prepared for the American Assembly on the United States and the United Nations held in Harriman, New York on April 13-16, 1972: "Big Power divisions and *the weakness shown by the UN* in the Indo-Pakistan hostilities last December have further undermined confidence in the UN's peacemaking mission." (Emphasis added.)

The UN is only as effective as the member states wish it to be. Mr. De Palma further states, "For months the world and the UN watched the gathering Indo-Pakistan conflict with resigned fascination. It is not my purpose to go into the bilateral efforts made by our government to head off the conflict." This is significant because there was no need to engage in bilateral efforts if the U.S. had acted on the authority given it and all other states to request a meeting of the Security Council. The failure was not the UN's. The failure was the membership's.

Further evidence of official U.S. position on the UN is demonstrated by the fact that the Bureau of International Organization Affairs in the Department of State, which is responsible for U.S. participation in the UN, had only 155 employees in 1970 compared with 236 in 1950. In a sense, cries of ineffectiveness are a self-fulfilling prophecy.

The Administration is not solely to blame for decreasing U.S. support of the UN. The Congress carries an equal responsibility. It has cut funds to the United Nations Development Program and allowed the U.S. to renege on its financial obligations to the International Labor Organization. It has put the U.S. in violation of the UN Charter by allowing importation of Rhodesian chrome ore contrary to UN sanctions.

I am deeply concerned about the future of the UN for it cannot succeed without the support of the U.S. Nor can it succeed without the support of other nations which are willing to put the interests of mankind, and even the future of mankind, above their own self interests. The U.S. can and should be a leader in seeking a world order based on peaceful settlement of disputes.

We cannot return to an era where it was possible to carry on our affairs with little thought for the rest of the world. We should have learned that in World War II. Nor can we return to a world where the great powers attempted to resolve the problems of the world bilaterally on a balance of power philosophy. We should have learned that in the Middle East and in Vietnam. We have to realize that we're all in this together—this family of man—and we ought to direct our efforts to making a good life possible for everyone. With the destructive potential of nuclear weapons, the alternatives could mean the end of life as we know it.

There has been a tremendous lack of leadership in this country and in the world about the significance of the UN and the necessity for its success. The establishment of these commissions will give the U.S. the opportunity to reassess the meaning of the UN and the U.S. role in it. Perhaps this will enable us to regain world respect by assuming world leadership in the cause of peace. I urge the Subcommittee to act favorably on these resolutions.

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STATEMENT OF DR. RONALD J. GLOSSOP, CHAIRMAN OF THE GREATER ST. LOUIS CHAPTER OF WORLD FEDERALISTS AND ASSOCIATE PROFESSOR OF PHILOSOPHY AT SOUTHERN ILLINOIS UNIVERSITY AT EDWARDSVILLE

Whether we direct our attention to metropolitan areas or the international arena, one of the fundamental problems of our society is that certain communities of people lack the needed political structure for solving their community problems. In most of our metropolitan areas there is no government to address itself to the problems of the metropolitan community as a whole; con-



sequently problems such as area-wide transportation, water purification, and air pollution do not get solved. In the world as a whole there is no government to address itself to the problems of the global community; consequently problems such as pollution of the oceans, international communication, and regulation of multinational corporations do not get solved. It is the responsibility of all nations, and especially of the leading nation of the world, to do what can be done in order to strengthen the United Nations so that it can serve as a government which is concerned about the interests of the human species as a whole. The establishment of a government for humanity cannot be accomplished overnight, but the process of movement in that direction cannot wait any longer.

The strengthening of the United Nations is necessary not only from the global point of view but also from the point of view of the interests of the United States. If the United Nations could be depended upon to stop aggression, we could save a considerable amount of the \$75 billion a year we now spend for defense. Our unilateral intervention in various parts of the world in order to correct what we see as aggression and injustice has aroused suspicion in some cases concerning our motivations. A strong U.N. Peace Force could act without arousing doubts about its concern for peace and justice. Furthermore, it could go into touchy situations such as the Middle East where the presence of U.S. troops would be regarded as inflammatory. It should be remembered too that the solution of the global problems discussed in the previous paragraph are as necessary for people living in the U.S. as for others.

I realize that House Concurrent Resolution 258 which is the focal point of this hearing does not specify what changes should be made in the U.N. Charter but merely calls on the President to initiate studies to determine what changes should be made. Still it may be helpful to note certain possible changes which might be recommended.

A very far-reaching but yet fairly non-controversial change would be the addition of an Article to the U.N. Charter creating an agency to govern the oceans of the world. The United States was one of the sponsors of the resolution passed in the General Assembly in December 1970 by a 100 to 8 vote (6 abstentions) which calls for the holding of an international conference in 1973 to set up an international regime to govern the oceans. This regime would deal with problems such as mining of minerals in the oceans and from the sea-bed, granting of fishing rights, and control of ocean pollution. The U.N. Charter should be revised to include such an agency. This agency to govern the oceans should be allowed to grant licenses for the use of ocean resources (both biological and mineral), to collect fees for these licenses, to establish regulations concerning pollution of the oceans, and to operate a special oceanic police force to enforce these regulations. It could also be given control of at least one uninhabited island which could serve as a location for the place of incorporation of multinational corporations which it would then have the power to regulate. It could also keep any nation from placing permanent weapons on the sea-bed. If the ocean is not governed by such an international agency, it will become even more than it is now the point of conflict between nations as they seek to pursue their own national interests. Also, further pollution of the oceans may mean the death of all animals including man as the oxygen-producing algae of the ocean are destroyed. Reason demands that the U.N. be permitted to govern the oceans, a place where there is no national sovereignty to be rescinded and which in the absence of government is likely to become as wild as the American "wild West" with its absence of any law but the decrees of the man with the fastest gun. Action in this area is urgent. Species of ocean life are becoming extinct. Pollution is increasing daily. The longer issues such as fishing rights and mining rights go unsettled, the more difficult it will be to bring any law and order into the situation. Although it might be possible to institute an agency to control the oceans under Article 59 of the Charter, it would seem more appropriate to make such a governing body for the oceans one of the principal organs of the United Nations. This action would require amending Paragraph 1 of Article 7 and the addition of new Articles defining the composition, functions and powers, voting, and procedure of the Regime to Govern the Oceans.

A second specific change which might be proposed is to amend the voting procedure in the General Assembly so that so-called micro-states would not have the same vote as the super powers and larger nations. In fact, now that so many small nations have joined the U.N. the whole concept of one vote per nation in the General Assembly needs to be reconsidered. The votes in the General Assembly



tend to lack any moral persuasiveness because a substantial number of small nations can outvote a group of nations whose population and power is huge by comparison. The voting in the General Assembly could be weighted so that larger nations have more votes without undermining the principle that each nation should have at least one vote and that the ratio between the votes permitted to different nations need not be directly proportion to their populations. One possible voting arrangement has been suggested by Grenville Clark and Louis Sohn in their well-known book *World Peace through World Law* (Harvard University Press, 1946). Others are available. The point is that unless the voting more realistically represents the thinking of humanity as a whole, the votes in the General Assembly will come to carry less and less moral authority. On this point it is Paragraph 2 of Article 9 and Paragraph 1 of Article 18 which need to be revised.

In connection with the suggestion in the previous paragraph it should be noted that a study by our State Department a number of years ago recommended that the U.S. not seek to change the voting procedures of the General Assembly because the smaller nations have voted with us more than they have voted against us. I find this kind of reasoning disgraceful since the function of the U.N. is to speak for humanity, not the national interests of the United States. It is important to note that the Resolution under consideration by this Committee requests the President to initiate studies "to determine what changes should be made in the Charter of the United Nations to promote a just and lasting peace through the development of the rule of law." It does not say that these studies should seek to determine how to change the U.N. Charter merely in order to advance the short-range interests of the U.S. Just as a person who desires his own self-interest can usually further it most in the long run by not being overtly selfish, so, if we but had the wisdom to realize it, the long-range national interest of the people of the United States will probably be served best by not simplistically seeking to make the U.N. an instrument of our immediate national goals.

There are many other matters for consideration. For example, in the U.N. Charter the Economic and Social Council is given responsibilities but no powers for making decisions or controlling the budgets of the specialized agencies whose activities it is supposed to coordinate. Thus amendments to Chapter X (which includes Articles 61 through 72) should be considered. Perhaps the General Assembly should be given the power to arrange for the financing of peace-keeping operations in advance by having a Peace Fund. The President's Commission on the Observance of the 25th Anniversary of the U.N. recommends such a Fund on pages 5-6 of their report. It seems that Article 17 of the U.N. Charter might need to be amended to permit such advance funding. Perhaps the veto power in the Security Council could be limited by specifying the kinds of votes where the veto can be used rather than by specifying that procedural matters are the only issues where the veto cannot be used (see Paragraphs 2 and 3 of Article 27). Perhaps the Military Staff Committee could be composed of persons from the small and non-aligned countries rather than consisting of "the Chiefs of Staff of the permanent members of the Security Council or their representatives" (see Paragraph 2 of Article 47). Clark and Sohn in the book previously mentioned argue for the desirability of such an arrangement. These are merely some possible changes which need to be considered.

As I see it, the United States has made the mistake of directing too much of its attention to the Russians and the struggle against Communism. The world is a large world: it includes Western Europe, South America, Africa, the East Indies, Japan, Australia, Canada, and so on. We are losing confidence of these other nations because of our obsession about Communism. The irony of the situation is that by not furthering the work and influence of the United Nations in places such as South America and Africa we may actually be laying the groundwork for the Communization of those continents. The U.S. should take the lead in strengthening the U.N. It is the best hope for humanity in the long run, and that includes the people of the United States. To continue to use our vast power to pursue short-range national interests and opposition to social reform in the rest of the world is to turn the rest of the world against us. To use our power to work for world-wide justice and human dignity is to become again what the United States once was, the hope for all men everywhere and especially for the down-trodden. Serious proposals from the United States concerning how to revise the UN Charter to make the United Nations more effective would be a good first step in getting us back on the path of leadership.



Mr. FRASER. Our next witness is Mr. Walter F. Hoffmann, who is appearing here today on behalf of the World Federalists of the United States.

**STATEMENT OF WALTER F. HOFFMANN, ON BEHALF OF WORLD  
FEDERALISTS—U.S.A.**

Mr. HOFFMANN. Mr. Chairman, we appreciate very much the opportunity to appear before this committee.

I am a member of the national Board of Directors of the World Federalists—U.S.A. and have been designated by President Luther Evans to make this statement on behalf of our organization. I might also add that I am president of the New Jersey branch of the World Federalists, vice president of the New Jersey Council of Organizations to Strengthen the United Nations, and a member of the U.N. Charter Review Subcommittee of the World Peace Through Law Center.

The World Federalists—U.S.A. strongly urges the adoption of House Concurrent Resolution 258—the so-called Hungate resolution—which requests the President to initiate high-level studies to determine what changes should be made in the charter of the United Nations, and which commits the United States to support a U.N. Charter Review Conference to be held not later than 1974.

On December 11, 1970, the small nations in the United Nations—led by Carlos Romulo of the Philippines—succeeded in passing a motion by a vote of 82-12 which put on the agenda of the General Assembly for the fall of this year, 1972, the question of the need to consider the revision of the Charter of the United Nations.

As part of that motion, the General Assembly requested the Secretary-General to invite member nations to communicate to him their views and suggestions on charter review by July 1, 1972.

In response to that invitation, Congressman William Hungate introduced House Concurrent Resolution 258 which is under consideration here today. It is our understanding that at least 130 Members of the House have cosponsored this resolution, and that 69 Senators have cosponsored a similar resolution in the Senate.

The most important part of this resolution is, in our view, paragraph 3, which placed the Government of the United States squarely behind the formal calling of a conference to review the U.N. Charter. If the House and the Senate can pass this resolution, we will then be able to answer the request of the Secretary-General by saying that it is the view of the U.S. Government, or at least of Congress, that a Charter Review Conference should be held no later than 1974.

To understand why it is important to call a Charter Review Conference, it should be helpful to outline some of the initial hopes for the United Nations and a few of the present disappointments in that organization.

In April of 1945, President Harry Truman said in an address at Kansas City:

When Kansas and Colorado have a quarrel over the water in the Arkansas River, they don't call out the National Guard in each State and go to war over it. They bring suit in the Supreme Court of the United States and abide by the decision. There isn't a reason in the world why we cannot do that internationally.



And yet, 27 years later, when India and Pakistan had a dispute over a refugee problem and charges of genocide and of interference in the domestic affairs of another country, they did call out their armies and they did go to war; and there wasn't a thing the United Nations could do about it.

It was not because the United Nations was not aware of the dispute. Eight months before, formal charges had been presented to the United Nations. After war broke out on December 3, the Security Council met. Two resolutions received a majority vote but were vetoed by the Soviet Union. The Security Council, unable to act because of the veto, referred the matter to the General Assembly.

The General Assembly did adopt a resolution calling upon both sides to agree to a cease-fire and to withdraw their troops behind their respective borders. Pakistan, which by then was losing the war, agreed. India, which by then was winning the war, stalled for time.

Time magazine summed up the whole situation by writing: "There wasn't a thing the United Nations could do to enforce its resolution."

Despite President Truman's hopeful comment 27 years ago, the essential fact about world politics today is that the United Nations, as presently constituted, is too weak to accomplish one of the tasks it was given at San Francisco, namely, to save succeeding generations from the scourge of war.

The United Nations is too weak to preserve world peace because it is bogged down by the veto in the Security Council; too weak because it does not have an international police force of its own; too weak because it has no independent revenue-raising authority to support such a police force if it had one; too weak because it has no authority to compel quarreling parties to submit their legal disputes to the international Court of Justice; too weak because the United Nations has no specific procedure for binding arbitration; and too weak because it cannot legislate step-by-step universal—not unilateral—disarmament.

As long as the United Nations remains so weak that it cannot preserve world peace, we will continue to spend billions and billions of our tax dollars to try to obtain some kind of security through armaments. But there is no real security in the arms race.

Whatever we build, other countries build; and whatever they build, we build; and sooner or later someone will light the match that will put the world up in the smoke of nuclear devastation. This will happen either by madman design, by accident, or by eyeball-to-eyeball confrontation when neither side backs down.

Bertrand Russell once wrote an epitaph for mankind. It went like this: "Ever since Adam and Eve ate the apple, man has never refrained from any folly of which he was capable. The end."

The question of whether the human race will commit the ultimate folly of nuclear self-destruction is an issue, I believe, which our generation will decide.

In a Law Day message in 1958, President Dwight Eisenhower said almost the same thing: "The world no longer has a choice between force and law; if civilization is to survive, it must choose the rule of law."

The function of law throughout history has been to try to bring human conduct up closer to the ideal of the natural law. In the days

of the Old West, when people had an argument, they drew pistols and shot it out. At a certain point in history, they recognized that it made sense to turn their guns over to a sheriff and live under a rule of law.

Today we have at least the structure of law and order within our towns, States, and Nation. But on an international level, we really have anarchy. Any nation can do whatever it pleases, so long as it has the force to do so. There is no enforceable world law to apprehend the international criminals who would make war.

In order to achieve the rule of law in world affairs, the world federalists believe that we must build the institutions necessary to make, interpret, and enforce law with justice on a world level. This means the substantial strengthening and reform of the structure of the United Nations.

Our own great American federalist, Alexander Hamilton, once said: "He who wills not the means, will not the end." If we do not give the United Nations the means to preserve world peace, we will never attain the goal of world peace.

Allow us to outline for you some possible steps that might be taken in a Charter Review Conference to strengthen the United Nations.

#### 1. U.N. VOTING PROCEDURES REQUIRE REFORM

Constructive action by the Security Council has been blocked over and over again by the use of the veto by one or another of the permanent members. A Charter Review Conference could consider amendments to modify or change the veto provision through the substitution of special two-thirds or three-quarters majorities for certain types of actions.

The one-nation-one-vote principle in the General Assembly could also be reexamined by such a conference. There are several proposals available which would bring General Assembly representation more into line with world political reality and with principles of democracy and justice.

The fact that reform of the voting procedures in the Security Council and General Assembly may be a difficult and touchy point for many nations should not deter us from supporting the calling of a Charter Review Conference. A re-reading of the annals of our own Constitutional Convention is helpful to understand that the subject of voting reform will very probably involve months of debate before a workable compromise can be achieved.

#### 2. U.N. FINANCING METHODS NEED IMPROVEMENT

As you know, some nations have refused to contribute to the U.N. peacekeeping operations. It will always be difficult to raise revenue for peacekeeping functions by special assessment against member nations that disagree with a particular peacekeeping operation.

The United Nations revenue is also grossly inadequate for the tasks at hand. The entire U.N. budget is less than one-third of the budget of the police force of the city of New York; and yet we expect the United Nations to keep the peace of the world.

To supplement contributions from member States, a Charter Review Conference could investigate other sources of revenue. Such sources



might include revenues from the exploitation of the seabed or a limited license fee in relation to commercial uses of outer space.

### 3. THE CHARTER LACKS SPECIFIC ARBITRATION PROCEDURES

Article 33 of the United Nations Charter calls upon member governments to seek a solution to their disputes through "mediation, conciliation, (and) arbitration"; but article 33 fails to spell out how arbitration is to be accomplished. Experience indicates that this wording is too imprecise and too permissive.

A Charter Review Conference could consider the redrafting of article 33 to provide a specific mode of progression, when necessary, from two-party negotiations to increasingly higher levels of third-party involvement in stubborn disputes.

Such provisions could commit parties to a dispute, in advance, to accept arbitration or judicial settlement, in the event that negotiation, mediation, or conciliation prove insufficient.

### 4. THE INTERNATIONAL COURT OF JUSTICE LACKS COMPULSORY JURISDICTION

The World Court, which sits at The Hague, is seldom used. The practical effect of the reservations made to the statute to the Court is that the Court hears only those cases which the parties consent to submit to it.

A Charter Review Conference could consider amendments to chapter XIV of the charter and to the statute for the Court which would give the International Court of Justice compulsory jurisdiction over the interpretation of legal questions involving the United Nations Charter. This could supplement our own repeal of the Connally reservation.

In addition, a Charter Review Conference might consider:

(a) Amendments to refer automatically to the Court the justiciable legal elements of any dispute which has proved intractable under a revised article 33.

(b) Broader provisions for the use of the Court for advisory opinions not only by U.N. organs but also by regional organizations and individual nations.

(c) Amendments to permit the U.N. as a legal entity to bring suit before the Court.

(d) Provisions for the establishment of international regional courts with the right of appeal to the International Court of Justice.

### 5. THE UNITED NATIONS HAS NO STANDBY FORCE OF ITS OWN

Article 43 of the present charter calls upon all member governments to make available to the Security Council armed contingents and facilities, but the charter is ambiguous on whether the U.N. itself can have its own separately and individually recruited international police force. For the United Nations to have the task of keeping world peace without a permanent police force of its own is analogous to a city trying to fight fires without a fire department.

In addition to permitting the direct recruitment and training of U.N. peacekeeping force personnel, a Charter Review Conference

could consider amendment to permit the sending of United Nations peace observation teams and United Nations interposition forces to preserve peace anywhere in the world. Had such authority existed at the time immediately before the 7-day war in the Middle East, that war might have been avoided.

#### 6. MEMBERSHIP HAS NOT BEEN OPEN TO ALL GOVERNMENTS

A Charter Review Conference could consider amendments permitting automatic membership in the United Nations by every nation. Despite the recent seating of the People's Republic of China, there are still many governments that are not represented in the United Nations.

We refer particularly to such divided countries as East and West Germany, North and South Korea, and North and South Vietnam. Without such representation, the United Nations cannot deal effectively with problems arising in those areas.

#### 7. THE U.N. CHARTER LACKS SPECIFIC AUTHORITY TO PROTECT THE WORLD'S ENVIRONMENT

Because it is difficult to control the pollution of the oceans and the atmosphere through individual national action worldwide environmental standards are now required. A Charter Review Conference could give the United Nations specific authority to control those aspects of the environment which cannot be adequately regulated by private or national action.

#### 8. THERE ARE FEW HUMAN RIGHTS SAFEGUARDS IN THE CHARTER ITSELF

A Charter Review Conference could consider adding a United Nations bill of rights to protect individuals against arbitrary action by the United Nations.

#### 9. THE UNITED NATIONS LACKS AUTHORITY TO ACCOMPLISH UNIVERSAL DISARMAMENT

The United Nations has long recognized that the implementation of general and complete disarmament will require the establishment of an International Disarmament Organization. In fact, the draft disarmament treaties submitted by both the United States and the Soviet Union make provision for such an agency.

A general review of the charter will be able to examine the character of an International Disarmament Organization and its relationship to other U.N. organs. Without the ability of the U.N. to supervise a gradual, step-by-step universal disarmament, no permanent peace is possible.

In defense of those who drafted the United Nations Charter, it should be remembered that it was written before the first atom bomb was ever exploded, before the first hydrogen bomb was detonated, before the development of ICBM's, and before the advent of the cold war. It is only natural that after 27 years parts of the charter should require strengthening.



The draftsmen did recognize that changes would have to be made. Indeed, they provided in article 109 for the calling of a general review conference after 10 years. The calling of a Charter Review Conference is not subject to the veto, it merely requires a two-thirds vote of the General Assembly and a vote of any nine members of the Security Council.

If a Charter Review Conference is voted by the General Assembly, we may then be able to get the nations of the world to discuss some of the items which we believe need strengthening—such as voting reform, U.N. financing, specific arbitration procedures, an expanded use of the World Court, a standby peacekeeping force, universal membership, environmental controls, human rights safeguards, and disarmament.

It is most important to pass paragraph 3 of the Hungate resolution by June 30 of this year so the Secretary-General of the United Nations can be notified of the view of the United States Congress that a Charter Review Conference should be held not later than 1974.

Paragraph 2 of the Hungate resolution calls upon the President to initiate high-level studies to determine what changes should be made in the U.N. Charter and to report back to the House Foreign Affairs Committee by March 31, 1972. Unfortunately, that date is now past.

The Cranston resolution, S. Con Res. 45, in the Senate uses the date of June 30th. That date may also be unrealistic as far as new high-level studies are concerned.

In this connection, I would like to call the committee's attention to the relationship between paragraph 2 of the Hungate resolution and the Mailliard bill which is also before you today, and which creates a permanent commission to study the United Nations and appropriates \$150,000 for this purpose. In our view, the Mailliard bill is a perfect comparison to paragraph 2 of the Hungate resolution. They should go hand-in-hand.

In brief, we endorse the following steps:

1. Congress should go on record at once in favor of the calling of a Charter Review Conference to be held no later than 1974.

2. This view should be communicated before July 1 to the Secretary-General pursuant to his invitation.

3. Congress should also call upon the President to conduct high-level studies to determine what specific changes should be made in the charter, and Congress should also create a permanent U.N. Study Commission by means of the Mailliard bill, so that the U.S. Government will have detailed proposals ready for submission to the U.N. Charter Review Conference when it is called in 1974.

It should be emphasized that the Hungate resolution and the Mailliard bill are intertwined. In no event should a study commission be a substitute for endorsement of a Charter Review Conference. If a Charter Review Conference is endorsed, a study commission is necessary to refine specific charter reform proposals.

Paragraph 1 of the Hungate resolution calls upon our country to continue its historic role of providing leadership in the modernization and reform of the United Nations. We do, indeed, have such an historic role.

In a speech at American University in June of 1963, President John F. Kennedy said:

We seek to strengthen the United Nations, to help solve its financial problems, to make it a more effective instrument for peace, to develop it into a genuine world security system, capable of resolving disputes on the basis of law, of insuring the security of the large and the small, and of creating conditions under which arms can finally be abolished. This will require a new effort to achieve world law.

According to a Gallup poll, 85 percent of the American people want to see the United Nations strengthened. During the past 6 months, the Federalists in New Jersey have been speaking to Rotary Clubs, Kiwanis Clubs, churches, and high schools all over the State. I personally spoke 13 times in the month of March alone.

We can testify that these findings of the Gallup poll are accurate. People, we find, are disappointed in the progress of the United Nations, and they want very much to see it strengthened.

In order to strengthen the United Nations, however, we have to convince ourselves and the rest of the world that there is no real security in the arms race, and that the only real security lies in some form of a strengthened United Nations. If we are to prevent the United Nations from going the way of the old League of Nations, we must make the effort to strengthen it. We see no rational alternative solution on the horizon.

Everett Dirksen, the late Senator from Illinois, once said with regard to the Civil Rights Bill of 1964: "Every great idea has its time in history." We firmly believe that the time for the idea of a greatly strengthened United Nations is coming.

Before closing, I would remind the committee once again of the urgency of this matter, not only from the point of view of communicating to the Secretary-General our Government's view of charter review before the July 1 deadline, but also from the point of view of avoiding world war III.

In 1965, Carlos Romulo, one of the leaders in the struggle for a stronger United Nations, said: "Charter revision is not a utopia for the future. We cannot wait for the next generation to achieve it—there may never be a next generation. The need is essential. The time is now.

Do not tell me it is a great idea but it cannot be done. I have heard all of the reasons and I am not impressed. It must be done. This is the only way I know for enforceable world law to replace international anarchy. Without such law there can be no peace. It must be done; it shall be done. We will do it.

Mr. Chairman, I thank you once again for the opportunity to present the testimony of the World Federalists. If there are any questions, I would be glad to try to answer them.

Mr. FRASER. Thank you very much, Mr. Hoffmann.

You are probably familiar with the position that the Department of State has taken on the idea of calling a Charter Review Conference.

Mr. HOFFMANN. I just saw it today.

Mr. FRASER. Their argument seems to be that since there seem to be no amendments at the present time which could get the necessary support, that the Charter Review Conference would likely be an effort of frustration.

What is your response to that?



Mr. HOFFMANN. My response is that I think it is a weak answer, to say that we should not have a Charter Review Conference at all. You don't agree on amendments before the actual calling of the conference.

I am sure that if our own Founding Fathers in Philadelphia in 1787, when the call went out for States to send delegates to amend the Articles of Confederation, if they had said, "We are not going to call a constitutional convention unless we all agree in advance," we would not have the Constitution of the United States today.

I think that what exists now, we know, is not accomplishing the job. The job is to preserve world peace. And we know that it must be strengthened, so it seems to me the only viable way, really, to strengthen it is to get everybody together in a conference.

It is going to take a couple of years just to call the conference, and still more time to sit down and hammer out what can be done to strengthen it in specific areas. I have outlined a number of specific areas. We may end up not accomplishing everything that we hoped for, but I think we have to try.

Mr. FRASER. Now on the other side of the argument, I suppose that if agreement can be reached on a particular amendment, that you can use existing procedures; in other words, you don't have to have a conference in order to amend the charter, provided that there is enough support for it.

Mr. HOFFMANN. I think you have got to talk in terms of a whole package, because I don't think one country is going to say, "Well, I am going to give up the veto," unless it knows what else is going to happen.

I don't think another country is going to say, "I am going to give up the one-vote-one-nation procedure," unless it knows what else is going to happen.

I think you have to talk in terms of the whole package, and the whole package has to be hammered out over a period of many months' debate and decision. The one-step procedure where you just say, "Well, we want one amendment here," I don't think is going to work in terms of dramatic changes in the charter.

Mr. FRASER. So what you are arguing is that you need to have all these matters in front of you so that you can involve the tradeoffs and the compromises and so on.

Mr. HOFFMANN. That is right. I don't think the major powers are going to give up the veto unless they get more representation in the General Assembly. I don't think they are going to give up the veto either unless they are sure that there is some kind of viable security system that is going to develop and it is going to be a fair system, that it is going to involve the use of the International Court of Justice, as an example.

I think each step is intertwined, and I don't think you can just say, "We are going to have an amendment," and that is it.

Mr. FRASER. Let me just ask you about one case in particular that I am not clear about in my own mind; I am just interested in your own views. When India went to war against Pakistan or sent troops into East Pakistan, the United Nations did call upon the countries involved for a cease-fire. Now one gets the impression in looking backward at what took place, whether or not you approve of what happened in terms of the means, that the end result probably saved a lot of blood-

shed in the long run. In other words, India was being encumbered with an enormous flow of refugees and they would apparently continue to be the cause of warfare and killing inside of East Pakistan. At least from India's point of view this might have been a justified action. But under the course of the general rules in the world community, you don't send national armies across national boundaries.

I am wondering if you think that the rules under which the United Nations operated—the general rules delineating the proper conduct of nations—were adequate for the situation.

Mr. HOFFMANN. I think there is a danger that we too often think in terms of an international organization having a police force to maintain the status quo, whatever it is, and I don't think we should think solely in those terms. I think we have to think in terms of building the institutions to resolve conflicts.

I think what was lacking here was not just a police force to carry out a political resolution of the General Assembly, but what was lacking was a method of resolving the dispute that had arisen; namely, the International Court of Justice should have been presented with a lawsuit.

India could have brought suit in the International Court of Justice on charges of genocide, if genocide were in fact charged and that were a part of the Human Rights Covenant that had been agreed to by all sides. There should have been a method short of war to resolve the legal disputes involved. There should have been a method in terms of arbitration, where the parties appoint one arbitrator, and they, in turn, pick a third, or various methods of arbitration by a panel, and so on.

We have to build these institutions so that disputes can be resolved, and you also need a police force to back up the decision if it is resolved.

I think there should have been a way for India to litigate its charges rather than just present them to the General Assembly and then nothing happen.

Mr. FRASER. You suggest that there is a lot of machinery which needs to be established that can be used effectively.

Mr. HOFFMANN. Yes.

Mr. FRASER. So that the parties will have confidence.

Mr. HOFFMANN. Right.

Mr. FRASER. Mr. Rosenthal.

Mr. ROSENTHAL. How do you feel about some kind of weighted voting procedure?

Mr. HOFFMANN. I think that the larger nations should have more votes in the General Assembly. One proposal is the Greenville Clark proposal—the largest have 30 and the smallest have one.

Mr. ROSENTHAL. Does he base those four nations—India, China, the U.S.S.R., and the United States—on population or prestige or gross national product or what?

Mr. HOFFMANN. He bases it on population categories. I think everybody over 150 million he gives 30 votes, and then the next eight I think have 15 votes, and then scaled on down.

Of course, there have been a lot of proposals, and I don't mean that we have to have this particular one. There have been proposals based on gross national product and so on. But I think the important thing



here is that if you are going to relinquish the veto there has to be a different voting system in the General Assembly. I think the important thing is to get the nations of the world to start discussing it in a charter review conference.

Mr. ROSENTHAL. Did you mention that in your paper anywhere?

Mr. HOFFMANN. Yes, on the bottom of page 5 and the top of page 6. What I said is that the one-nation-one-vote principle could also be reexamined by such a conference and there are several proposals available. I didn't go into it in detail.

Mr. ROSENTHAL. This is one U.N. problem I find many Americans have trouble with, the one-nation-one-vote principle. They don't have confidence in the United Nations, particularly since the number of U.N. members has doubled since it started.

Mr. HOFFMANN. Right.

Mr. ROSENTHAL. That seems to me the lowest common denominator among U.N. critics if you are going to have any changes.

Mr. HOFFMANN. There is another deterrent that the one-nation-one-vote has. The United States in particular and maybe other countries, too, are reluctant to give the United Nations any real power if we only have one vote in the General Assembly. I think that people are reluctant to give it any force.

Mr. ROSENTHAL. Particularly the nations who feel that their security interest requires them to maintain the kind of forces they have in order to preserve their national interests. They are the ones who are most reluctant to give away anything. You have to give them something in return.

Many people who are most offended by the one-nation-one-vote principle, say they cannot even pronounce the names of the countries that have an equal vote in the General Assembly with their own country. What is the position of the State Department on this?

Mr. HOFFMANN. I just read the letter today, but as I recall, I think what they are saying is that they know of no specific amendments on which everybody agrees, and therefore they are reluctant to have a charter review conference for fear it may be fruitless.

Mr. ROSENTHAL. It is my impression that the European nations have given more significance to their European Court of Justice than to the International Court of Justice. It may be a good example to follow. We were impressed on a recent study mission in Europe that a number of European nations have given significant chunks of jurisdiction to this court and were willing to abide by it. Many Americans are not aware of that concept. That might be a selling point in this thing.

Mr. HOFFMANN. Yes.

Mr. ROSENTHAL. Thank you, Mr. Chairman.

Mr. FRASER. Thank you.

We are going to ask the Department of State to appear. I think one of the questions we need to have answered is: If Congress does not act, what will the Department do in response to the Secretary General's request? In other words, will they have their own ideas which they will offer even in the absence of this more formal study that we are considering?

Mr. HOFFMANN. Of course, there is the Lodge Commission report, which we feel does not go far enough, but it does discuss some aspects of strengthening the United Nations.

Mr. FRASER. A certain number of proposals.

Mr. HOFFMANN. Yes; and then, of course, the Katzenbach report, too.

Mr. FRASER. Right.

Mr. HOFFMANN. So it seems to me this is a beginning; that they could build up from.

Mr. FRASER. I have just one last question and then we will get on to our final witness.

In your view, if we have a charter review conference, what level of officials should represent the member governments? In other words, should it be the Secretaries of State of the nations or would the U.N. regular Ambassadors be sufficient? Perhaps you have not prepared yourself on this subject.

Mr. HOFFMANN. No; I have not prepared myself, but it is an interesting question. I would think that it should involve, of course, the Secretary of State and the Ambassador to the United Nations, but I should think in addition to that there should be specific delegates named whose sole function would be to work on this and who may spend months on it in terms of working on nothing else but.

Mr. FRASER. In other words, there would be somebody delegated from each delegation that would make it their sole, principal interest?

Mr. HOFFMANN. Yes.

Mr. FRASER. The reason I raise the question is that we are likely to be faced with the argument that if it is going to be at the U.N. Ambassador level, how would the Charter Review Conference really differ from a meeting of the General Assembly, other than that its focus would be on charter review, as distinguished from the regular range of problems with which the General Assembly deals each year.

Mr. HOFFMANN. That is why I think it is necessary to have persons in addition to the ambassador, to have persons delegated just to be delegates to this, and they would sit there throughout the sessions. I would think that that would be necessary.

Mr. FRASER. That is something we will consider.

Mr. HOFFMANN. May I just submit to you—I think these have been submitted at the table—"The World Association of World Federalists Proposals for United Nations Reform?" They include three categories: Proposals which require a charter change, proposals for which charter change is desirable, and proposals not requiring charter change. I thought if you wanted to make this part of the record, you could do so.

Mr. FRASER. Yes; without objection, we will insert it in the record at this point.

(The document referred to follows:)

THE WORLD ASSOCIATION OF WORLD FEDERALISTS, PROPOSALS FOR UNITED NATIONS REFORM, PARIS, FRANCE—JANUARY 15, 1972

The United Nations, as a political structure, is evolving with the passage of time and by the light of its experience in dealing with the problems of human society. Some substantial possibilities for further evolution, moreover, exist in the present Charter. History and experience show the need for continuing reform of the United Nations to meet the needs of a shrinking, dangerous and rapidly changing world.

Since 1945 the advent of nuclear power, the spreading of armaments, numerous wars, the wasting of resources, a deteriorating environment, rising human expectations in collision with poverty and over-population, a sharp increase in United Nations membership and major shifts in international relationships, and



the demonstrated shortcomings of the United Nations in peacekeeping and as a creator of world law, together with even other factors, combine to show the urgency of review and reform of the Charter and of the functioning of the United Nations.

Proposals for the development of the United Nations must have the guiding purpose of promoting the well-being and dignity of the human person.

The longer term aims of the suggestions we offer are:

1. To strengthen the capacity of the United Nations as a means of international decision-making, as a system of justice and as a source of enforceable law, so that it may replace a war system based on the destructive use of national power;
2. To re-enforce human rights and to enable the United Nations to meet needs which nation-states or lower levels of government cannot effectively serve, and
3. To redirect the use of human and natural resources from war and arms into an improvement of the quality of life.

The World Association of World Federalists suggests to the Member Nations of the United Nations some important areas for reform of its structure and operation. We recommend such proposals as these to the Member Nations as a response to the request of the Secretary-General, acting for the General Assembly, that Member Nations present their views on review of the United Nations Charter at the 27th General Assembly.

We believe that the challenges of our present world environment demand a quantum jump toward world order and that world leadership must move quickly to prepare an adequate response. We urge the 27th General Assembly to establish a United Nations committee for the consideration of suggestions and proposals from Member Nations and intergovernmental and non-governmental organizations, in preparation for holding a United Nations Charter review conference at the earliest practical date.

Some of the recommended proposals would require, at least in part, changes in the present wording of the United Nations Charter. For other proposals, Charter changes would be preferred, but are not absolutely essential. Finally, we offer several suggestions concerning the development of the United Nations system which do not involve the Charter.

#### I. PROPOSALS REQUIRING CHARTER CHANGE

1. *Membership.*—The function of the United Nations is to represent the peoples of humanity. Full implementation of the principle of universal membership will greatly strengthen the United Nations. The seating of the Peoples' Republic of China is a major advance toward the principle of universality. This development provides a basis from which to press forward for the admission of the other States not now Members of the United Nations. Amendment of the Charter is long overdue to remove from its language all reference to the "enemy states" of World War II.

2. *Peaceful settlement of disputes.*—The provisions of the Charter for dealing with peaceful settlement of disputes need improvement. Experience indicates that the existing wording is too imprecise and too permissive, often leading to delay and the failure to deal with disputes at the optimum time for their settlement. There has been a tendency, moreover, for the United Nations to immobilize disputes, rather than to settle them.

The redrafting of Article 33 is therefore advisable in order to provide a specific mode of progression, when necessary, from two-party negotiations to increasingly higher levels of third-party involvement in stubborn disputes. Such provisions would commit the parties to a dispute, in advance, to accept arbitration or judicial settlement, in the event that negotiation, inquiry, mediation or conciliation may prove insufficient.

While, under Article 29, the Security Council may establish subsidiary organs as it deems them necessary for the performance of its functions, there is in fact no permanent standing machinery to function in pacific settlement of political disputes. Therefore the wording of Article 37 should be amended to include provisions for a standing Conciliation and Arbitration Commission. Such a Commission should consist of a small group of persons universally respected, such as past Presidents of the General Assembly; the Commission should determine its own procedures and methods, and its work should normally be confidential.



3. *The International Court of Justice.*—It is desirable to relate the Court much more closely and effectively to the maintenance of international peace and security. No single act would be of greater aid to this aim than for States to declare that they recognize as compulsory the jurisdiction of the Court in all legal disputes.

In addition, the following amendments, among others, are worth consideration at any general review of the Charter and the Statute of the International Court of Justice:

(a) There should be a provision for referring automatically to the International Court of Justice for judicial settlement the justiciable legal elements of any dispute which has proved intractable under a revised Article 33 on Peaceful Settlement.

(b) Broader provisions for the use of the Court for advisory opinions are necessary. At present the Security Council, the General Assembly, and any United Nations organ or agency so authorized by the Assembly may request an opinion. In addition, regional organizations, individual States, and the Secretary-General should have such rights before the Court.

(c) The United Nations as a legal entity should also have authorization to bring cases before the Court.

(d) There should be provisions to establish international regional Courts under the supervision of the International Court of Justice, and for the right of litigants to appeal from a regional court to the International Court of Justice.

4. *Human rights.*—At the present time the United Nations deals with most human rights matters at as many as five different stages: in a sub-committee or ad hoc committee or by a special rapporteur, then in the Commission on Human Rights, in ECOSOC, next in the Third Committee, and finally in the Plenary of the General Assembly. The United Nations should create a new Human Rights Council to integrate these steps and to report directly to the General Assembly. Such a Council would be on the level of the Economic and Social Council, and would relieve ECOSOC of its human rights responsibilities, thus freeing it to concentrate on economic and social developments.

It is desirable that the United Nations should implement the proposal for creating a new post of High Commissioner for Human Rights. The establishment of a World Court of Human Rights to supplement existing and planned regional Courts of Human Rights deserves study. Such a World Court of Human Rights would have responsibilities analogous to the European Court of Human Rights.

5. *Strengthening the ECOSOC.*—The United Nations Economic and Social Council needs the means to fulfill the functions for which it is responsible. Moreover, the authorization in the Charter for ECOSOC to "co-ordinate the activities of the Specialized Agencies through consultation" is inadequate. The expected success of present moves to enlarge the membership of ECOSOC will enhance its ability to make broadly based policy decisions. It is important that ECOSOC reflect the kind of concerns about the terms of trade, commodity price levels and related matters which are central interests of the United Nations Conference on Trade and Development.

For truly effective co-ordination of the economic and social work of the United Nations system, ECOSOC should have the authority to review all questions relating to economic and social matters before their submission to the General Assembly and to pass on the policies, plans and budgets of the concerned Specialized Agencies before their adoption by those bodies. Authority well beyond that specified in the Charter is necessary to enable the Economic and Social Council to carry out its job effectively.

## II. PROPOSALS FOR WHICH CHARTER CHANGE IS DESIRABLE

6. *Peacekeeping.*—The Charter has spelled out the procedure for taking enforcement action against aggressors in Chapter VII. These provisions should, of course, be implemented. In addition, however, the framers of the Charter did not adequately foresee the evolution of international peacekeeping by interposition in order to arrest conflict and prevent violence without prejudice to the matter at issue. Consequently a new paragraph under Article 40 is desirable to spell out the generally agreed principles of observation and of peacekeeping by interposition. A draft of this new section should include points such as the following:



(a) The Security Council may, whenever it deems it necessary to prevent aggravation of a situation, establish United Nations Peace Observation Teams, and a United Nations Interposition Force to arrest or prevent violence, and to permit peaceful settlement as delineated in Chapter VI.

(b) The establishment, deployment and maintenance of such teams and forces would be in accordance with agreed guidelines to be annexed when developed.

(c) All Member Nations shall designate especially-trained and instantly-ready observer personnel and contingents or equivalent support for the United Nations Observer Teams and Interposition Forces.

(d) The Security Council may at any time decide to authorize direct United Nations recruitment and training of such personnel.

(e) All States shall accept United Nations Peace Observation Teams at any trouble spot and on both sides of contested areas or borders when required by the Security Council, the General Assembly or the Secretary General.

(f) Removal or recall of UNIForce contingents shall require a decision of the Security Council.

(g) The regular budget of the United Nations shall provide for financing of United Nations observer teams and UNIForce contingents together with a special Peacekeeping Fund held in reserve to assure rapid response in the event of threats to the peace.

(h) If the Security Council, which under the Charter has primary responsibility for maintenance of international peace and security, fails to act in establishing an observer team or an interposition force in any crisis situation, the General Assembly shall have the authority to act.

In order to assure a nucleus of individuals trained in violence control, arbitration and mediation, and to provide personnel specializing in the solution of conflict problems, the United Nations should establish a world-oriented university, one division of which would be an academy for peacekeeping and related matters.

*7. Security Council membership.*—The composition of the Security Council should reflect the realities of power and responsibility in the United Nations. Regarding the election of non-Permanent Members, the Charter says, "due regard is to be given to the contribution of Members to the maintenance of international peace and security and to the other purposes of the Organization." This principle could be applied informally by the more frequent election of those States most able to contribute to the purposes of the Organization. However, such an informal arrangement as this might well prove insufficient.

Among possible means for such purposes would be creation of a new class of semi-permanent Members through adding a rotational seat for each world region which the nations of such a region most able to contribute to the purposes of the United Nations would occupy in rotation. In order that Council membership may better reflect world realities, a provision of this nature might explicitly change one-half of the existing non-permanent seats to semi-permanent seats, or might add new semi-permanent seats and thus enlarge the membership of the Council to 21. Either of these means would enable the creation of semi-permanent seats for each world region. Such a step would require amendment of Article 23 of the Charter.

*8. Security Council voting.*—The Charter provision that action in substantive matters shall require the affirmative votes of all the Permanent Members should be changed or modified, while still recognizing that primary responsibility for peace and security rests with the Permanent Members. The unanimity rule has, in fact, already undergone modification in that the Security Council no longer regards the abstention of a Permanent Member as a "veto". Simply to bring the Charter into line with this practice requires a change of the language prescribing that decisions on substantive matters shall require the affirmative votes of nine Members provided that no Permanent Member casts a negative vote.

A further step forward would be to limit the use of the veto, for instance by provision for special majorities in certain situations, except in matters involving enforcement action by the United Nations. This could take place initially by a voluntary agreement for a specified number of years, after which the principle could become a part of the Charter. Experience indicates the desirability of retaining the unanimity requirement for enforcement action as envisaged under Articles 42-54. However, unanimity of the Permanent Members should not be a requirement for peacekeeping by interposition, nor for any Security Council resolution other than on enforcement.



Recent reforms of the procedures of the General Assembly offer an example for possible improvements of the practices of the Security Council. Among such possibilities are meetings of the Council to review implementation of its resolutions, including periodic meetings at the ministerial level implementing the provision of Article 28, Paragraph 2 of the present Charter for this purpose; the creation of an Executive Committee for day-to-day observation of world events; and the establishment of subsidiary organs for investigation, for fact-finding in disputes, and for purposes of inquiry, good offices, conciliation and mediation.

9. *General Assembly voting and representation.*—The one-nation-one-vote principle in the General Assembly needs re-examination in the course of any major review of the Charter. Several proposals are available which could bring General Assembly representation and voting more into line with world political reality and with the principles of democracy and justice.

10. *United Nations finance.*—United Nations revenue is grossly inadequate for the tasks at hand, and is a tragically small sum compared to the estimated 200 billion dollars which the world's nations spend annually on arms.

To supplement contributions from Member States it will be useful to investigate other sources of revenue. Such sources might include revenues from the exploitation of the sea-bed and a limited tax or license fee in relation to space communications and other commercial uses of outer space.

The idea is worth consideration that the United Nations should have the power to offer certain types of services to international corporations, and to grant them charters, and to impose limited taxes.

A special United Nations fund should exist in each country to enable individuals, corporations and foundations to contribute to humanitarian and educational activities of the United Nations.

11. *An international disarmament agency.*—The United Nations has long recognized that the thorough implementation of General and Complete Disarmament will require the establishment of an International Disarmament Organization. Both the United States and the Union of Soviet Socialist Republics draft treaties for General and Complete Disarmament make provision for an International Disarmament Organization. Any review of the United Nations Charter should examine the character of such an International Disarmament Organization and its relationship with the other organs of the United Nations, and, since disarmament is a Charter obligation, we believe that all disarmament negotiations should take place under the auspices of the United Nations.

### III. PROPOSALS NOT REQUIRING CHARTER CHANGE

12. *The United Nations development program.*—The strengthening and expansion of the United Nations Development Program as a result of recent studies is welcome. The enhanced potential of UNDP as an agent for economic and social development programs should be an encouragement for industrially developed States to channel larger contributions and a greater proportion of their economic assistance through UNDP. The important advantages of multilateral as opposed to bilateral aid have become more apparent both to donors and to recipients. In connection with achievement of the goals of the Second Development Decade, States should substantially increase their contributions to the UNDP.

13. *A world environmental agency.*—A global authority related to the United Nations, reinforced by regional agencies, should have the responsibility for dealing with the problems of the environment and in particular to become the co-ordinating and expediting body for international standards and guidelines for control of contamination of the environment by the use of natural resources. The same authority should assure competent professional management for United Nations environmental programs. The environmental authority would not necessarily include operational duties.

14. *An ocean space regime.*—For the protection of the environment, the marine food chain rights of navigation, the rational exploration and exploitation of the sea-bed, and peaceful relations between all users of the world's waters, the United Nations should establish a Regime to control the use of the sea-bed and the waters beyond the limits of national jurisdiction. We agree with Secretary-General Waldheim's view, expressed when representing Austria in the General Assembly, that the maximum possible area of the sea-bed should be reserved for international jurisdiction.

The United Nations should ensure the development and protection of the oceans as the common heritage of mankind. A substantial portion of the revenues from



the exploitation of the resources of the sea-bed should accrue to budgetary and economic development needs of the United Nations. For these purposes it is necessary to specify a form of organization with effective jurisdiction, and to specify its relationship to the other organs of the United Nations system.

15. *Relief in international disasters.*—In order to supplement and strengthen the recent action of the United Nations establishing the post of Disaster Relief Co-ordinator, and in order to provide a prompt international response in situations arising from natural catastrophies, we propose setting up, under the auspices of the United Nations, a Disaster Relief Agency, equipped with materiel and personnel means necessary for rapid and efficient intervention in disaster situations, and for the purpose of co-ordinating the efforts of relevant United Nations agencies, national governments and voluntary groups.

Mr. FRASER. Thank you very much. Your testimony has been most helpful.

Mr. HOFFMAN. Thank you.

Mr. FRASER. Our final witness this afternoon is Dr. Gerard J. Mangone, who is from the Woodrow Wilson International Center for Scholars at the Smithsonian Institution. He is a prominent scholar on international organization affairs, having served as Executive Director of the Lodge Commission on the United Nations which worked in 1970-71.

Dr. Mangone, will you proceed please?

**STATEMENT OF GERARD J. MANGONE, SENIOR FELLOW, WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS, SMITHSONIAN INSTITUTION**

Mr. MANGONE. Yes, thank you, Mr. Chairman.

I appear before you as a private scholar who has given some 25 years of study to international organizations. My first published work, "The Idea and Practice of World Government," appeared 21 years ago.

I appear before you also, Mr. Chairman, to support House Joint Resolution 1143, which would establish a Commission on United States Participation in the United Nations, consisting of two Members of the Senate and two Members of the House of Representatives drawn respectively from the Committee on Foreign Relations and the Committee on Foreign Affairs, as well as five private citizens widely recognized for their knowledge of the United Nations and the role of the United States in the organization.

In many ways the United Nations has lost its luster as the splendid institution that was intended to maintain international peace and security, raise the living standards of all peoples, and insure human rights under international law. The ideals of the charter so rhetorically inspiring at San Francisco 27 years ago have become tarnished.

Public support which once was stirred by appeals to strengthen international organizations has dwindled. Apathy and cynicism seem to have replaced so many high-minded hopes and diligent efforts on behalf of United Nations endeavors.

The reasons are not difficult to discover. In the Middle East and Vietnam, the United Nations peacekeeping potential has been scorned and snubbed by both the great powers and their satellites. Economic development through U.N. multilateral efforts still struggles to obtain the financial means from rich states and the managerial powers from

poor states that would bring about a truly equitable redistribution of world wealth.

Neither large nor small nations have lived up to their pledge to make the United Nations a center for promoting and encouraging human rights and to settle disputes in conformity with the principles of justice and international law. The legal cupboard of the International Court of Justice is virtually bare.

The finances of the United Nations are strained through a sieve of invective and recrimination.

The wearisome discussions of the countless committees and commissions by a swollen membership of nations apparently unable to exercise self-restraint and unwilling to delegate any executive power, hardly inspires the millions of peoples of the world who look toward the United Nations for help.

Let it be clear, Mr. Chairman, that no one nation is responsible for this sorry state of international affairs. To be sure, totalitarian or anti-democratic states will never have any liking for criticisms or constraints upon their domestic policy by international agencies or international courts. But the democratic nations and especially the United States have a vital long-term interest in fostering a world in which international cooperation will prevail over national ambition and in which international law will inhibit national egoism.

The White House has been alternately puzzled and troubled about the use of the United Nations in the public interest of the American people; puzzled because of the uncertain heed that the electorate pays to the progress of international organizations; and troubled by despair in accomplishing anything through a fractious forum of some 130 nations where mighty and weak states express themselves as equals—and always at tedious length—or through the Security Council where one great power alone can stop all substantive action.

A lack of conviction about the merit of the United Nations has long been translated from the White House to the State Department where the political reach of the Bureau of International Organization Affairs has been circumscribed and responsibility for multilateral affairs has been fragmented.

The President's Commission on the United Nations in 1970-71 soon discovered that an abundance of excellent research studies and proposals to improve the performance of the U.N. system were available. But the data and the recommendations lacked political focus, needed public illumination and understanding, and absolutely required both presidential and congressional support to achieve any of the high-minded goals set forth by the American groups or individuals concerned about international law and organization.

I believe the 96 recommendations of the Lodge Commission were remarkably cogent. Some of them have already been implemented and most of them have received or are receiving serious consideration within the Department of State.

But the greatest value of that commission was the presence of the Senators and Representatives from Congress working side by side with private citizens in formulating the recommendations after holding public hearings in Atlanta, Rochester, St. Louis, Des Moines, Seattle, and San Francisco.



It was extremely heartening to see the thousands of Americans who turned out to bear witness to their likes—and dislikes—about the United Nations. Many citizens felt that for the first time Washington had gone to the people to obtain their ideas and their sentiments about U.S. participation in the United Nations.

It is elementary constitutional law that the Congress and the President both have responsibilities in making the foreign policy of the United States. To the extent that the Senate and the House of Representatives have reviewed from time to time U.S. participation in international organizations or participated in international delegations, the public is more frankly advised on the issues and the Congress benefits from the insights by their colleagues into the Chief Executive's responsibility.

The difficulty for Congress, however, as in so many matters of government, is that its posture may be passive; that its advice and consent on policy may come too late for the creative initiative it can and should exercise on important matters of public concern.

A permanent Commission on U.S. participation in the United Nations, with two Members from the Senate Foreign Relations Committee and two Members of the House Foreign Affairs Committee, meeting regularly with five members appointed for their outstanding knowledge of the United Nations, would provide not only a political vehicle for review and appraisal of U.S. objectives and activities in the Organization, but also a means of suggesting, emphasizing, and encouraging presidential action.

As you well know, the most corrosive influence upon democratic principles and representative government is apathy. Apathy takes the form of indifference by the electorate, inertness through the bureaucracy, and inattention among the elected.

The United Nations is too important to the future of this Nation and all other peoples of the world to be ignored by the American people or to be bypassed by the American Government.

Firmer, clearer, and more direct action must be taken to clarify United Nations issues for the public and to guide executive direction so that the role of U.S. participation in the U.N. system may be greatly improved. I believe this proposed Commission can do so, and I earnestly support its creation by the joint resolution before you.

Thank you, Mr. Chairman.

Mr. FRASER. Thank you very much, Doctor.

Did the Lodge Commission deal with the question of a Charter Review Conference?

Mr. MANGONE. Yes, it did, Mr. Chairman. This was discussed among the members, and the feeling was that what we had to do was sort out the issues that needed attention soon, quickly, some of which would require amendment of the charter, others which could be done by the United States acting by itself or in concert with other countries.

I am not inherently opposed to charter review. On the other hand, I should point out, Mr. Chairman, that any alteration of the charter that would take place at a charter review conference would, of course, require the ratification by two-thirds of the member states, including all of the great powers that have the veto power in the Security Council.

It is possible that you could get a great many things done on a marginal basis through amendments, and I think it is important—the point has been made here several times—that we focus on what the most urgent needs are. The mechanism for doing so, it seems to me, is not quite so important as moving ahead with the changes that are required within the system.

The United Nations is a surprisingly malleable organization when it wishes to be so. Many innovations have occurred; many parts of the charter are dead issues, not likely to be revived; even if major organs like the Economic and Social Council have not realized the hopes of the founders, we have had a number of new and vital institutions created that no one could have predicted, such as the United Nations Development Program.

I have listened with great attention to the call for weighted voting, and I should point out, Mr. Chairman, that in a sense the U.N. system is a weighted voting system. It is a system that does require a vote of two-thirds of the General Assembly to approve important resolutions; it is a system in which each of the five great powers has as much weight in the Security Council as all the other 14 states put together. Some U.N. institutions, like the United Nations Development Program, have developed within the system and have been organized so that there is a balance between the developing countries and the developed states. But the United Nations General Assembly is not a weighted voting system in terms of population or in terms of wealth. For that reason several things, like international loans, have been excluded from the United Nations General Assembly itself and put into specialized agencies, such as the International Bank for Reconstruction and Development.

Mr. FRASER. There have been institutional developments that have by-passed the General Assembly, in part because of the voting?

Mr. MANGONE. Yes; that is correct.

Mr. FRASER. Has the United Nations itself created any kind of permanent committee which is given a kind of continuous responsibility for looking at charter change?

Mr. MANGONE. I don't think there is one right now. The latest review effort, of course, was the General Assembly request to member states to transmit comments upon possible reform of the International Court of Justice. So far it has not been a promising exercise. The Secretary-General, I suppose, over the years has from time to time inquired of the members about charter articles that need review. But I personally do not know of any continuing committee for this subject.

Mr. FRASER. It might be useful to have some kind of permanent committee which would keep illuminating the issues and developing interest and prodding the executive branch.

Why would it not be useful for the United Nations itself to create a commission or committee which had ongoing responsibility for continuing the search for consensus on changes, so that you would not "put all the eggs in one basket" with a single conference, and yet you could create a focal point within the United Nations where these matters would be discussed, and hopefully if you had some strong leadership on it it might be productive.

Mr. MANGONE. It is a very reasonable suggestion, Mr. Chairman. The Lodge Commission made a number of suggestions for strengthen-



ing the institution itself. For example, one of the things the Commission proposed was a strong steering committee for the General Assembly, taking a page out of legislative history. The steering committee would have the power, under amended rules of the General Assembly, to limit debate. The steering committee might actually select a limited number of members for the six major committees of the General Assembly, which are now slow and clumsy committees of all the member states. There are so many things that could be done to move toward greater responsibility in UN affairs, which is a kind of weighted voting. Improvements of procedure alone would give the Organization a great deal more influence and earn more respect from the public at large.

This calls for considerable self-discipline within the Organization. It is my hope, as an American citizen, that the United States will take leadership in this area. One way of taking leadership, as the United States has ably done in the United Nations Seabed Committee is to show the economic advantages to other countries of international regimes; another way, as in the forthcoming United Nations Conference on Human Environment at Stockholm, is the appropriation of money to give direction to international organization. Among the Lodge Commission recommendations was the proposal to gradually reduce the assessed contribution of the United States to the United Nations. The idea was not to minimize the American commitment in any way to the Organization, for the Commission recommended that the total U.S. contributions be kept the same or increased, but to increase the use of voluntary funds, which are often a way to direct an organization toward constructive goals.

If I may offer one illustration, the World Health Organization's campaign for the eradication of malaria was largely stimulated by the U.S. voluntary contribution and then gradually absorbed into the regular budget of the Organization itself.

Mr. FRASER. In the House here—and I don't mean to use this too strongly as an analogy—there was a great dissatisfaction with the House of Representatives internal organization, and both the Democratic and Republican caucuses appointed committees—I am more familiar with the Democratic Committee—which came up with very constructive suggestions which were adopted. There were suggestions that really had not been floated on the outside; I mean they were internally generated from perceptions of Members recognizing institutional shortcomings and difficulties.

I have the impression that if you could create a group within the U.N. with a very strong interest which would work from the inside but able to look at all the proposals from experience that this could be at least a source of change probably not the only change, because sometimes some certain kinds of changes have to come from the outside, but—

Mr. MANGONE. I would share that view, Mr. Chairman, but again, always with the caveat that if this is going to be a committee of 130 sovereign nations, you are likely to have it go on and on without a willingness to face up to responsible decisions. An expert committee that might be created within the U.N. system itself on these issues, I should think would be most valuable.

Mr. FRASER. One of the results of a Charter Review Conference might be the recommendation to create a more specialized expert committee for an ongoing examination. If the Department of State is right that a conference would be one of frustration, one way they might come to grips with that would be to say, "Well, we recognize the main objectives that we are after, but we are going to keep some machinery operating so we don't have to come back to another conference later but will have something all along."

Let me come back to your proposal here. I think there is merit to making sure that the recommendations of the commissions of study, both yours and the other, don't get an examination for the first 6 or 12 months and then the report is put on the shelf.

Mr. MANGONE. Exactly.

Mr. FRASER. That is too often what happens to reports and commission studies and so on, so that one searches for a way to keep the issue alive. Would you see the kind of a group that you are recommending producing new recommendations or trying to serve as a spur to an examination of the recommendations already generated?

Mr. MANGONE. I would think both, Mr. Chairman. This is conceived politically as a way in which you get Congress and outside expertise involved in giving continuous attention toward United Nations matters. It might help the Executive to take action, because the frequent argument of the bureaucracy are, "Well, we can't do this," or "No one would agree to it," or "Congress would probably not accept it."

If suggestions came from a group of experts in United Nations affairs in concert with two members of the House Foreign Affairs Committee and two members of the Senate Foreign Relations Committee, they would be a tremendous incentive for those in the executive branch who would sincerely like to move further ahead in our commitment to multilateral activities.

I see the Commission's work as complementary to what some people in the executive department would very much like to do with regard to the U.N. system.

I also see the Commission as part of the responsibility of the Congress to make its ideas and its innovations known to the executive branch and not merely be in the position of discovering what the policy is and then having to review it or criticize it without giving an original input that could be valuable.

Mr. FRASER. To what extent did the congressional membership of the Lodge commission participate?

Mr. MANGONE. The participation was uneven. Some Members of Congress were more engaged than others, but I will point out that of the six hearings that we held in different cities in the United States, five of those hearings were chaired by a Member of Congress. And, Mr. Chairman, it was of tremendous help to the work of the Commission to have had Senator Robert Taft chairing a public hearing in Seattle, Senator Sparkman in Atlanta, Senator Fulbright chairing in St. Louis, Senator Cooper in Rochester, and so forth.

It meant a great deal to the impression the Lodge Commission gave to the public who came to witness. Some people said to me: "For the first time, it looks as though Washington really wants to learn how we feel about the United Nations and wants to do something about it."



I think I may say, in all candor, and I think the State Department would agree with me—it was better to have Members of Congress at these meetings than a Foreign Service officer or an Assistant Secretary of State. There was a feeling that these chairmen were the people's representatives.

Mr. FRASER. What about participation in the formulation of the recommendations, not only the formulation but the working out of the final recommendations?

Mr. MANGONE. Well, we worked very largely through a series of papers that were developed by the staff and put before the Lodge Commission as it met. I would say out of the eight congressional Members, we had on the average four or so at each of these meetings, including both Senators and Representatives.

Mr. FRASER. Which was very good.

Mr. MANGONE. I think it was very good.

Then, when the report was ready, I personally went to every one of the Senators and every one of the Representatives and laid the report before them, discussed the highlights of the recommendations, and was willing to put before the Commission any adaptations or changes that they wished to suggest.

Mr. FRASER. What would you think might be the principal disadvantages of your proposal?

Mr. MANGONE. Well, if I were playing the devil's advocate, the questions would be: Why another Commission? Won't its reports also just be put on the shelf? Will the Congressmen really participate in this? Will the Commission be at the mercy of the data that is brought to them by the Department of State?

My answer is that the legislation calls for a report every 6 months; it calls for the involvement of some of the leading Members of the Congress with very distinguished citizens who I feel would not want to be passive in their activity, and it does call for a small appropriation, so that there is one catalytic staff member at least that will have a mission in keeping these reports coming out.

It may be objected, perhaps, that this is not a concern of the U.S. House of Representatives, that these matters could be handled adequately in the Senate Foreign Relations Committee. Or it might be argued that there was no need for a commission, since you have an opportunity to ask the State Department to make studies or hold investigations and call upon U.N. experts.

Mr. Chairman that is quite a different procedure. That is the passive role of Congress rather than an active inquiry that is seeking to guide the executive branch toward a better involvement in the U.N. affairs.

Mr. FRASER. The International Organization Bureau is in the process of appointing an advisory committee. What role do you expect that committee to serve?

Mr. MANGONE. Well, there have been advisory committees to the Bureau of International Organization Affairs before. The men and women in the Bureau of International Organization Affairs, of course, are highly supportive of the U.N. system. After all, their Bureau is concerned with U.N. affairs and they support a constructive role.

On the other hand, as everyone knows, the Bureau of International Organization Affairs is not the most powerful bureau in the Department of State. There are geographical bureaus and there are functional bureaus, and in the system of making foreign policy that has emerged, the Special Assistant to the President for National Security Affairs plays a very important role apart from the U.N. system itself.

Some members of the Lodge Commission hoped that a U.N. Advisory Council to the President or to the Special Assistant for National Security Affairs itself might be established. In any case, I would be in favor of an executive-legislative commission to bring the President and Congress together for examination, initiation, and reflection on the U.N. system.

I would like to comment briefly again on the charter review. As I indicated earlier, I am not totally opposed to a conference, but I confess to seeing many difficulties in convening a large group of nation states with a mandate to review the entire charter.

The World Federalists are always tremendously impressed by the creation of the Federal Government of the United States in 1789. It was a very great moment in history. But I have given extensive study to constitutions and their origins. There has to be a propitious moment, a right number of circumstances, in which you can get a document to which all could agree.

Even under the most propitious circumstances of 1787 and 1788 if a handful of delegates in Virginia had switched their vote there would not have been any ratification of the Constitution by Virginia and probably no constitution as we know it now.

Constitutions that are formulated as a single document generally emerge after great crises, such as the League of Nations Covenant in 1919 or the United Nations in 1945. After World War II, France, Italy, Japan all got new constitutions. But many sound constitutions are changed gradually, like the British Constitution, and move slowly toward the objectives that fit their politics.

I am inclined to believe, as I look at the many Articles of this present Constitution of the United Nations, that a great deal could be done within the framework, could be done marginally, could be done by simple amendments, procedural changes, and that, in view of the conflict that will emerge when an enormous conference gathers to discuss all issues, might be a better way of doing it.

Mr. FRASER. What would be the worst that would happen if you had a general conference?

Mr. MANGONE. Well, the way the charter is now framed, as I indicated to you. Whatever amendments might be proposed in that charter review would still be subject to the ratification of two-thirds of the members and all the great powers.

The previous speaker has made a good point in saying that you can't get marginal changes because people don't see the entire package. On the other hand, I am a little concerned as to whether you might not have piecemeal ratifications of some of the amendments, and non-ratifications of the others.

You would have either a choice of a total package that would have to be ratified as a total package, which was done at San Francisco, or you might get a number of amendments whose fate you would not



be willing to tell; that is, you would not know whether some of them would be ratified by the great states, others would not, and the charter might be left in limbo.

All this assumes that you get consensus during the preparatory period, that you get all the members willing to come to a charter review conference to discuss all the issues. How many years would be involved in that exercise which may further delay more decisive action that is needed now is anyone's guess.

As you may know, Mr. Chairman, I have been following very closely the work of the Seabed Committee of the United Nations since 1967. In 1972, we are looking forward to a law of the sea conference in 1973, but the second subcommittee has not yet been able to agree upon the list of topics to be discussed. In the meantime, technological changes are taking place, national and international issues are arising. There is always some danger, in long, universal conferences that seek a total package of agreement rather than the pragmatic approach of a month-by-month, year-by-year negotiations.

I am not unalterably opposed to U.N. Charter review in the future.

It would seem to me that the kind of commission recommended here might be just the kind of commission to address an issue of that kind, to raise it cogently with the executive branch and make sure we ferreted out all their arguments, whether they are just dilatory or whether there are some substantive reasons for not moving ahead.

Mr. FRASER. Thank you very much. You have been very helpful. We appreciate having the benefit of your views on all of these questions.

Mr. Hoffmann, did you want to say something?

Mr. HOFFMANN. If I might, just by way of interest. At the World Peace Through Law Conference in Belgrade, Yugoslavia, last year, Harold Stassen made an interesting point. That is that a charter review conference could set as part of an overall revision of the charter a different mode of ratification, and this could be ratified in a package.

The Clark-Sohn world peace through law proposal talks in terms of a revised charter coming into effect upon the adoption of the whole.

Mr. FRASER. You would either ratify the new charter or not.

Mr. HOFFMANN. Yes; and then the worst that could happen—

Mr. FRASER. You would have the old one.

Mr. HOFFMANN. Yes.

Mr. MANGONE. Yes; you could do that, exactly.

Mr. HOFFMANN. The other thing I wanted to add is that there have been some U.N. committees on specific areas of reform such as the Special Committee on Peacekeeping Operations, but it has not really produced to my knowledge any specific results.

Those are the points I wanted to add.

Mr. FRASER. Good. Well, thank you very much.

The subcommittee stands adjourned.

(Whereupon, at 4:32 p.m., the subcommittee adjourned.)





## REVIEW OF U.N. CHARTER AND ESTABLISHMENT OF A COMMISSION ON U.S. PARTICIPATION IN THE UNITED NATIONS

MONDAY, MAY 1, 1972

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON FOREIGN AFFAIRS,  
SUBCOMMITTEE ON INTERNATIONAL  
ORGANIZATIONS AND MOVEMENTS,  
*Washington, D.C.*

The subcommittee met at 2:15 p.m. in room 2200, Rayburn House Office Building, Hon. Donald M. Fraser (chairman of the subcommittee) presiding.

Mr. FRASER. The subcommittee will come to order.

Today the subcommittee continues its consideration of House Concurrent Resolution 258, urging review of the U.N. Charter, and House Joint Resolution 1143, to establish a commission on U.S. participation in the United Nations.

Our witness for this afternoon is Hon. Samuel De Palma, Assistant Secretary for International Organization Affairs, Department of State.

### STATEMENT OF HON. SAMUEL DE PALMA, ASSISTANT SECRETARY FOR INTERNATIONAL ORGANIZATION AFFAIRS, DEPARTMENT OF STATE

Mr. DE PALMA. Mr. Chairman, I appreciate being invited to appear before this committee to discuss how best to proceed to strengthen the capabilities and improve the performance of the United Nations. I also appreciate the desire so clearly reflected in the two resolutions before the committee today to assist and reinforce this effort.

I will first discuss the question of U.N. Charter review presented in House Concurrent Resolution 258 and the other identical bills. We all recognize that the U.N.'s operations over the past 26 years have revealed certain structural and procedural weaknesses. How best to seek to remedy these weaknesses, however, is less apparent. Three different approaches to this problem have been advocated. Some of the U.N.'s supporters urge a general and drastic reform of its charter, and wish to see a charter review conference convened for this purpose.

Others consider its shortcomings in the political and security field insurmountable, for the present at least, and therefore propose that the United Nations concentrate, instead, on economic, social, and technological problems of worldwide concern. Still others believe that we

can and should press for particular structural and procedural reforms whenever experience indicates they are desirable and it seems possible to obtain the necessary support of governments.

I am of the last school of thought. I agree that the new social and technological concerns offer a promising area for present and future U.N. activities, but I do not think we can afford simply to ignore the U.N.'s potential in the political and security field. I believe that we must pursue and, as circumstances permit, intensify our efforts to increase the U.N.'s capacity to perform its political and security functions effectively. However, in my opinion progress is most likely to be achieved if these efforts are pursued pragmatically, step by step.

I continue to believe, as I indicated when I appeared before this committee last October, that a full-scale charter review conference at this time would not prove useful. This is the view set forth in the Department's letter to Chairman Morgan last November in response to his request for our comments on House Concurrent Resolution 258, among others. We have since reappraised the situation and continue to believe that assessment is valid. I would therefore like to explain more fully the considerations leading to this conclusion.

The United Nations has no real authority of its own. It is an organization of sovereign states dependent for its effectiveness on the national policies of those States and their willingness to cooperate to carry out the charter's purposes and principles.

The charter represents a compromise. Agreement on its articles was possible 27 years ago because the views of States represented at the San Francisco Conference were powerfully shaped by their common concern to avoid another world war and another worldwide depression. They shared a sense of urgency, but also a past experience with the realities of international political life. The charter they drafted is a flexible instrument, giving the organization room for development through practice, interpretation, or amendment, but always dependent on the agreement of its member states.

For example, when it became apparent that Security Council enforcement action was apt to prove impractical because of the conflicting interests of the permanent members, the United Nations was able to move, within the terms of the charter, to consent-type peace-keeping operations. With the consent of the states directly concerned, the United Nations has been able to contain and defuse a number of local and regional disputes and thus to prevent great-power confrontations. Cyprus is a continuing example of such a situation.

To facilitate Security Council action it was agreed among the five permanent members early in the U.N.'s existence that an abstention would not constitute a veto, though this is not stipulated in the charter. Toward the same end, a procedure was developed later through which the Council sometimes acts by consensus and without a formal vote, a procedure not envisaged in the charter. This happened recently when the number of U.N. observers on the Lebanon-Israel border was increased.

Though it took almost 10 years, the charter was formally amended to enlarge the Security Council and the Economic and Social Council in response to the expansion in U.N. membership. A resolution further to enlarge the Economic and Social Council was adopted by the last



General Assembly as part of a move to reform and strengthen the Council. This resolution was adopted largely at U.S. initiative as part of an effort made in 1971 to reform and strengthen ECOSOC.

The U.N. Charter made ECOSOC the main coordinator of the activities of the United Nations and the related agencies in the economic and social spheres, but ECOSOC had difficulty in fulfilling this function over the years. Many developing countries preferred to pursue their special interests in forums like the U.N. Conference on Trade and Development (UNCTAD) where they are represented in force and where they can more easily engage in the politics of confrontation. One reason for the lack of confidence by the developing world in ECOSOC is that its membership has been limited to 27 countries. This has resulted in periodically excluding for long periods the larger developing countries—as well as some of the more influential developed countries—from membership and participation in its activities.

Therefore, the United States proposed and ECOSOC adopted in 1971 a series of measures to revitalize the Council. These included in their final form expansion of ECOSOC's membership to 54 and, as an intrinsic part of this expansion, the creation of two standing committees of the Council: One to review and appraise the progress of the Second Development Decade, and another to provide policy guidance and make recommendations on matters relating to the application of science and technology to development.

After 7 years of negotiation in a special committee, the General Assembly in 1970 adopted a Declaration on Friendly Relations and Cooperation among States which is an elaboration of fundamental charter principles. Consciously starting from the premise that this declaration would not attempt to amend or revise the charter, the committee made significant elaborations on seven charter principles, notably those concerning the non-use of force in international relations, the right to self-determination, and good faith fulfillment of agreements. Agreement on this declaration proved possible despite the very significant changes that had occurred in the world since the charter was first drafted. Unfortunately, its significance has not been generally recognized.

On the other hand, repeated efforts to obtain voluntary agreement among the five permanent members of the Security Council on further limitation of the veto have been unsuccessful. The results of the Assembly's efforts last year to improve its own organization and procedures were disappointing. Our initiative 2 years ago directed toward revitalization of the International Court of Justice has so far met with little success, though the item remains on the Assembly's agenda and we hope it may yet produce constructive results. No real progress has been made over the past 7 years in the Assembly's Special Committee on Peacekeeping Operations, although the subject is very much alive and will be considered further. Nor have we been able so far to persuade others of the desirability, indeed the urgency, of setting up some form of associate U.N. status for so-called microstates.

The outcome in all these instances, both the successes and the failures, has been determined by the degree of support governments were willing to give each proposal. The situation would be no different at a charter review conference.

The question of charter review first appeared on the General Assembly's agenda almost 20 years ago—in 1953. Two years later it was discussed at length by the Assembly pursuant to Article 109 of the charter, which required that the calling of such a conference be considered at the tenth session if no such conference had been held.

In 1970 it was again discussed at some length in the context of the U.N.'s commemoration of its 25th anniversary. During the intervening 15 years a committee of the whole of the assembly had met at least every 2 years through 1967 to consider the question. Each time the view of a large majority was that the time was not propitious for the success of any attempt to review the charter. The matter will again be on the agenda of the next General Assembly.

Dissatisfaction with the U.N.'s performance is by no means confined to the United States, but the reasons for that dissatisfaction differ widely. For the United States and many of the founding members dissatisfaction stems primarily from the all too frequent inability of the United Nations to take effective action to prevent or contain such critical situations as the recent outbreak of hostilities between India and Pakistan: from the numerous impractical resolutions reflecting only "voting" and not "real" power and thus not susceptible of implementation: and from the organization's administrative shortcomings and financial insolvency.

Developing nations are dissatisfied because of their inability to obtain more assistance from the United Nations for their economic and social development and their inability to involve the United Nations more deeply and directly in their drive for decolonization and an end to racial discrimination in Southern Africa. Basically, the desire of such countries is to strengthen those U.N. bodies where their numerical majority prevails, such as the General Assembly, and to minimize the influence of the major powers.

There are others who see charter review as a way in which purely national ambitions might be attained, and there are some who argue for review simply on the grounds that they had no voice in the original drafting of the charter.

The Soviets are adamantly opposed to any charter review. We do not know what the attitude of the People's Republic of China toward charter review might be nor what suggestions the PRC might advance at a review conference.

As a result of these differing perceptions, a wide and often conflicting range of suggested changes could be anticipated. For example, these would probably include deleting the "enemy states" provisions in the charter—which have never been invoked—abolishing or substantially updating the portion of the charter concerning the Trusteeship Council, giving the assembly at least some mandatory powers, instituting some system of weighted voting in the assembly, abolishing the great-power veto in the Security Council, abolishing the permanent seats on the council or, conversely, increasing their number to include some of the larger powers that are not now represented, and altering the amendment process so as to abolish the veto on amendments.

There is no indication that any wide consensus is developing in support of any of these proposals, although some have strong supporters.



Should a consensus develop, it could be expressed as it has in the past through a General Assembly resolution to amend the charter in that specific respect, without the need to open the rest of the charter for general review.

In our judgment an attempt at a general review of the charter, in the face of the diversified membership and divergent outlooks of the present organization and without any indication of substantial agreement on specific proposals, or even on the general direction review should take, is not likely to prove constructive. Hopes would be aroused that are almost certain to be disappointed and present frustrations with the U.N., both official and public, would be intensified. The end result of such a premature move toward charter reform would be to weaken the U.N. rather than to strengthen it. Indeed, it is not certain that there exists today the agreement on basic objectives that permitted agreement on the charter 27 years ago.

Therefore, in response to the 25th General Assembly's resolution requesting the Secretary General to invite the member states to communicate to him before July 1972 their views and suggestions on U.N. Charter review, it is our present intention to reiterate our reservations with respect to any attempt at this time to overall review of the charter.

We also plan to make clear that these reservations do not extend to specific amendments of the charter designed to strengthen the organization structurally and which have a chance of obtaining the necessary support from two-thirds of all U.N. members, including the five permanent members of the Security Council. Finally, we intend to stress the importance, within the framework of the present charter, of continuing to seek agreement on principles and on organizational and procedural improvements that would enable the U.N. to carry out its charter responsibilities more effectively.

Now let me turn to House Joint Resolution 1143 and companion bills to establish a commission on U.S. participation in the United Nations.

As I understand it, a permanent commission, composed of four Members of Congress and five public members appointed by the President, would be established to make recommendations and provide guidance to those in the legislative and executive branches responsible for policy formation, implementation, and oversight. Twice a year it would report its findings and recommendations with respect to implementation of the Lodge Commission report; the organization and operation of the U.N. family of agencies, including the International Court of Justice; and the fulfillment by the United States of its obligations as a member of the U.N. and associated bodies.

Mr. Chairman, I wish to assure you and the other members of the committee that we fully agree with the proponents of this proposal that it is important to assure continuing oversight of U.S. policy and participation in the U.N. system.

At the direction of the President we have been giving close and careful scrutiny to the recommendations. Some have already been implemented. Others require action by U.N. bodies, necessitating extensive and persistent efforts to marshal the support of other delegations. Still others are under consideration within the Department, our U.N.

missions and in some cases with other executive departments and agencies whose interests are involved.

Frankly in trying to follow through on the recommendations of various policy panels—including the Lodge Commission and the UNA panel on which I testified last October—we have often found the going quite heavy. For example, as I have already stated, despite our best efforts at the last General Assembly we made very little progress on initiatives to streamline General Assembly procedures, to reinvigorate the World Court, or to establish an office of U.N. high commissioner for human rights. We have yet to get around the roadblock to workable and desirable peacekeeping arrangements, though we have recently circulated in the U.N. our ideas for peacekeeping ground rules which we had proposed in bilateral talks with the Soviet delegation to the U.N.

We hope that the circulation of our proposals as well as those of the Soviet Union will accelerate the efforts of the General Assembly's peacekeeping committees to reach an understanding on ground rules.

On the positive side, I have noted the reform of ECOSOC to serve as the policy coordinator for development strategy and the applications of science and technology. At our initiative, the Lodge Commission's recommendation for a U.N. disaster relief coordinator was translated into action in a remarkably short time, and the U.N. is beginning to make policy and rules and to manage operational programs to deal with global problems of population, drug abuse, hijacking, law of the seas, and environment—all areas identified by the Lodge Commission as needing urgent attention.

Let me note that in some cases we have not necessarily implemented Lodge Commission recommendations in the specific form advocated by the Commission, but we have responded to the intent. In a few instances, further reflection and consultation have led us to conclude that institutional responses different from those recommended were more acceptable and more practical.

For example, we believe the objective of the Commission's recommendation for a special U.N. commissioner for the protection of the environment can be better achieved in a broader institution framework, through establishment of an intergovernmental body responsive through ECOSOC to the General Assembly, a U.N. high commissioner for environment and an environmental fund. And we will seek this configuration next month at the Stockholm Conference on the environment.

Mr. Chairman, you will recall that we submitted an interim report last October to this committee on our progress in following up the recommendations of the Lodge Commission and the UNA panel. I would be prepared to respond to questions about progress or problems in specific fields, though we do not believe that a more formal accounting would be justified by what has been accomplished since then.

We are in the midst of sorting out possibilities for certain initiatives and proposals on matters in which we made little headway at the last General Assembly. We intend to pursue these in various preparatory conferences and diplomatic exchanges and at the coming General Assembly. The report just issued by the American assembly on "The United States and the United Nations in 1972" will provide further ideas for our continuing appraisal.



Mr. Chairman, we fully share the objectives of the sponsors of House Joint Resolution 1143. It is clearly in our national interest to help the United Nations improve its performance and realize its potential for building a better world. And we welcome congressional and public discussion with respect to problems and opportunities in U.S. participation in multilateral diplomacy. However, we have difficulty in envisaging a significant role for a commission set up on a permanent basis and charged with reviewing and reporting at set times on the overall operation of the United Nations system and the implementation of the Lodge Commission report. We believe that established channels for seeking congressional and public views on specific issues are likely to be more productive.

With respect to Congress, we believe that the periodic hearings and other consultations during the year with congressional groups and committees, including notably this committee, serve as the most productive means for assuring that we have the benefit of your guidance and oversight. With respect to the public, apart from the many productive exchanges we have with nongovernmental organizations and policy study groups, I am pleased to announce that we will soon reconstitute an Advisory Committee on International Organizations, with a membership of some 20 private citizens appointed by the Secretary, to provide a two-way channel between the Department and the public. The committee will advise the Department on how best to assure a strong and responsive United Nations that has the confidence of the American people and the Congress; it will help to present to the people and the Congress the problems and opportunities deriving from American participation in the United Nations system. You will recall that the Lodge Commission recommended the establishment of such a body.

With the limited staff available, we would foresee difficulties in providing adequate support and backstopping for the proposed permanent commission in addition to the demands already placed on us. Moreover, we are not sure that a permanent commission, however talented and prestigious, could issue every 6 months the kind of report on the overall state of our U.N. policy that could command the attention of the President, the Congress, and the public.

We believe that the normal course of our give and take with congressional committees and with nongovernmental groups could best be supplemented if commissions of the sort envisaged in House Joint Resolution 1143 were created when such a review seemed to be particularly needed.

Consequently, Mr. Chairman, we believe that it would be more practical and fruitful to constitute a Presidential commission on the United Nations at longer intervals, perhaps once in each administration as proposed in the Lodge report. Such a commission could conduct reviews in depth with sufficient intervening time to provide perspective on changing national priorities and changing conditions of the U.N. system.

Let me close with a word about lessons we believe can be learned from experience with the Lodge Commission, the UNA panel and similar study groups. We find that moving from appraisal of proposals to implementation is not a straight line process of determining

the value and practicality of a recommendation and then translating it into an initiative.

Rather, implementation is the product of a continuing and often intricate process of assessment and interaction within the U.N. system that may extend over many sessions and parliamentary encounters. It involves taking advantage of the opportune occasion and of shifting political combinations on the U.N. scene.

As I noted last year before this committee, our national claims and priorities must be advanced and bargained against the competitive interests of others. Proposals for structural reform or for altering the U.N.'s agenda must take account of the political aims and priorities of other nations. Presenting bold initiatives which are unacceptable or inopportune can be self-defeating even if they bring ephemeral, rhetorical triumphs. The end result may be to leave the public more frustrated and dissatisfied.

Also, questions of cost and priorities present difficult choices among commendable and constructive proposals for action. Last year we considered the time had come to enlarge the U.N.'s role in disaster relief and narcotics control and to press for Ecosoc reform. These steps accorded with our priorities and were also possible in the United Nations.

This year we are moving in high gear on environment and law of the seas. We are now preparing for a difficult negotiation to reduce our assessed share of the U.N. budget. We are also considering possibilities for making the Security Council a more responsive instrument for preventive diplomacy and peacekeeping.

We are examining further changes in the structure and practices of ECOSOC that would better enable it to carry out its role under the charter. We are taking a hard look at whether U.N. members are now ready, as they were not last fall, for measures to improve General Assembly procedures, including some voting reforms, and to give greater focus to efforts to implement human rights.

Finally, let me say that in many ways the paramount value of study commissions may lie not just in the specific proposals for action, but even more in generating a process of interaction between government and an informed citizenry, which is a prerequisite of a dynamic and responsive foreign policy in our country. Hearings and reports by congressional committees and key public groups have great value in building public understanding of the opportunities and problems we face in trying to improve the capacity of the U.N. system to deal with global challenges. Such a two-way educational process helps us immensely in achieving realistic policymaking which is likely to enjoy public support.

Mr. FRASER. Thank you very much, Mr. Secretary. Your statement helps greatly to set this problem into better perspective.

With respect to the request of the Secretary General for the views of member governments, was the request itself limited to the question of whether or not there should be a charter review conference, or was the Secretary General also searching for recommendations with respect to particular changes as well?

Mr. DE PALMA. As I recall the request, he specifically asks for our views and suggestions on review of the U.N. Charter. This I read to cover both review *per se* and the question of specific changes.



Mr. FRASER. I note that you presently propose to tell the Secretary General of your concern about an overall charter review conference. Do you also plan, or at least is it your present intention, to forward to the Secretary General proposals on specific changes at this time or a later time?

Mr. DE PALMA. At this point we haven't started drafting our response. I don't know whether we will include in that response any specific ideas or whether we will only allude to them in a general way. The point is that we will have occasion to discuss any of those we think are ripe for action in the course of the General Assembly, and we intend to.

We might just allude to possible improvements, but offhand I would doubt that we would go into great detail in this particular response.

Mr. FRASER. In the particular changes?

Mr. DE PALMA. Yes.

Mr. FRASER. It would seem to me that one of the things the Secretary General may want to consider—and obviously it is hard for me to know what his approach is—would be what the content of a charter review session might be in the case, for example, that our view did not prevail. Supposing the sentiment were one of determination to go ahead with a charter review. Then the question would be: What would its content be and how might it be structured?

Do you intend not to deal with this question in your response to the Secretary General?

Mr. DE PALMA. I assume that governments which favor a charter review conference will respond with an indication of the specific matters they wish to see pursued there. I am sure that the various responses will give us some idea of this and, of course, we will want to take these responses into account in determining our future policy, regardless of our present attitude.

All I am saying is that I am not sure at this point whether we will be very specific in our response about such possible changes and improvements as we have in mind. I am sure we will allude to them but I expect we discuss them in the course of the Assembly anyway.

Mr. FRASER. You mentioned the problem of providing backup staff. Under your present staff resources are you able to assign a person with the primary responsibility for continual, as you say, Katzenbach and Lodge studies?

Mr. DE PALMA. Mr. Chairman, we have had to assign the responsibility more broadly. The recommendations cover such a broad field that it is difficult to make them the responsibility of any one person. It is true that two people spend part time in seeing to it that we continue to address these in timely and meaningful ways, but in fact many officers in our bureau are concerned with these recommendations. They have been put before the whole bureau and we have been working at them on a bureauwide basis.

Mr. FRASER. I think what I am searching for is the question of whether there is somebody with a follow-up and coordinating responsibility so that if proposals are distributed among various groups within the Department there is somebody who provides the follow-up and pulls it together.

Mr. DE PALMA. There is. As a matter of fact, Mr. Pelcovits, who is with me here, does that, among other things, and Mrs. Hartley, who is here also is our expert on charter review. So we do have a focal point to follow through on these.

Mr. FRASER. You said you are appointing an advisory panel. How is it appointed? Do you make the appointment? Are they made by the Secretary? The White House?

Mr. DE PALMA. The appointments are made by the Secretary. The individuals are a cross-section of private citizens representing business, labor, religion, education, law, as well as academic experts. They come through an intensive screening process. Suggestions are made by the White House, as well as the Department and others, but the appointments are made by the Secretary.

Mr. FRASER. Mr. Findley?

Mr. FINDLEY. Mr. Secretary, on pages 7 and 8 you referred to an initiative 2 years ago to revitalize the International Court of Justice. Could you tell us of what that program to revitalize consisted?

Mr. DE PALMA. I am not sure I have it closely enough in mind, but we will supply the information. In general, we had a number of ideas following on certain suggestions made in a speech by Secretary Rogers in the spring of 1970. We therefore proposed the creation of a special committee, by the General Assembly to look at these and other suggestions.

We submitted recommendations covering a number of things. My recollection is that we wanted to look into the possibility of the court exercising its rights to set up chambers for example, so that the involved and extensive procedures of the court would not have to be brought to bear in each case. We wanted to make access to the court more attractive to potential litigants.

We also wanted to look into the possibility of various ways of simplifying the procedures for hearing cases so that the very costly and time-consuming process would not act as a deterrent.

There were other things too. This was a rather lengthy list. We could provide a copy of the document which we submitted to the Secretary General in 1970.

(The information follows:)

#### REVIEW OF THE ROLE OF THE INTERNATIONAL COURT OF JUSTICE

##### I. ROLE OF THE INTERNATIONAL COURT OF JUSTICE WITHIN THE FRAMEWORK OF THE UNITED NATIONS

The United States firmly believes that a strong and active international court is a central and indispensable element of an international legal order. Prevention of the use or threat of force to settle international disputes is essential to the maintenance of international peace and security, and is most effectively assured by the development of an international legal order and resort to a strong and respected court.

The present reluctance of States to use the International Court of Justice may suggest a certain lack of confidence in the institution. Some States have expressed concern about the competence, objectivity of the Court and the representative character of the law applied by it. Concern has also been expressed that some States have injected political considerations into the process of nominating and electing the members of that Court.

Unfamiliarity with the forum may lie behind the reluctance to use the Court, as may the assumption of some States that going to the Court is in some way an



unfriendly act. A U.N. General Assembly affirmation that use of the Court is an act of statesmanship implying dedication to high standards of international co-operation might mitigate this latter concern. In addition, some States feel that resort to the Court necessarily involves a long and expensive undertaking, even though the cost of the Court itself is borne by the United Nations.

Perhaps most fundamentally, there exists a basic disinclination to submit disputes to third-party adjudication. Cases of secondary importance to the vital interests of States are often considered not worth the expenditure of time and money actually required, and cases which do affect those vital interests are regarded as too important to entrust to any third party. Uncertainty regarding the law to be applied by the Court only increases hesitancy to litigate.

To overcome these obstacles, the attitude of States toward use of the Court must be changed. It is the opinion of the United States that many and perhaps most of the institutional and procedural deficiencies of the International Court of Justice can be overcome, and respect for and use of the Court greatly enhanced. The indispensable step in effecting these changes, however, is recognition and acceptance by States of the value to themselves and to the world as a whole of a responsible legal order, and of a viable international judiciary at its core.

In that context, the United States strongly favors this review by the General Assembly of the role of the International Court of Justice. Although revisions which might require amendment of the Statute of the Court should not be excluded from this review, the strongest possible effort should be made to revitalize the Court within the present provisions of the Statute. The United States believes that such an effort could include examination of the issues outlined in Sections II through IV below.

## II. ORGANIZATION OF THE COURT

### A. *Nomination and election procedures*

Respect for the competence and objectivity of the judges is essential to fundamental confidence in the Court. To elicit that respect, Article 2 of the Court Statute requires "independent judges elected regardless of their nationality from among persons of high moral character," persons who possess the qualifications for highest judicial office and who have recognized competence in international law. In addition, Article 9 contemplates that the Court should be representative "of the main forms of civilization and of the principal legal systems of the world."

Although many highly qualified jurists have been elected to the Court, the nomination and election procedures have been subject to intensive political pressures which have caused some States to raise questions concerning the independence and objectivity of the Court. The critical element in ensuring the nomination and election of outstanding and independent jurists is the strong determination of States to do so, rather than the particular procedures followed. Presently prescribed procedures are satisfactory; therefore, efforts need to be directed toward ensuring bona fide application of those procedures rather than substitution of an entirely new system.

Within the scope of present procedures a number of constructive steps can be taken to encourage election of independent judges. In accordance with Article 6 of the Statute, before making nominations national groups should conduct extensive consultations with national and regional bar associations, universities, judicial authorities, legal scholars and other concerned groups in order to obtain recommendations regarding nominations. Similar consultations among national groups might be undertaken on the regional level to encourage support for the most outstanding national candidates. States should also seek to isolate the election of jurists to the Court as far as possible from other pressures of political accommodation.

### B. *Term of office*

In the context of efforts to increase the independence and representative character of the Court the term of office of the judges should be examined. It is the opinion of the United States that the present nine-year term is the minimum length needed to encourage independence of the judges.

The age of some judges, however, has been raised as a reason for lack of confidence in the adaptability of the Court to the new requirements of a changing international legal system. The United States believes, therefore, that a manda-

tory retirement age of 72 should be adopted and that national groups should seek to nominate only candidates who could complete their terms of office before reaching that age.

#### C. Representative character of the court

In addition to the above elements essential to confidence in the Court, States must feel that the relevant tenets of their particular legal systems will be understood and objectively considered by the Court. Broad and balanced representation in accordance with Article 9 has been sought by means of informal allocation of seats among the different basic legal systems of the world. The composition of the Court has changed over the years to reflect the change in character of the General Assembly membership. It now has approximately the same geographical composition as the Security Council, a distribution of seats which was agreed upon in the 1960's after the General Assembly had acquired approximately its present size and configuration.

A number of States, however, have advocated that the number of judges be increased in an attempt to broaden the present composition of the Court. Although in the future it may be appropriate to expand the size of the Court, the United States strongly feels such a move would be inappropriate at this time. There is at present no evidence that expansion of the number of seats would lead to greater use of the Court and absent such as result expansion would only intensify criticism that the Court is too large and too expensive.

It has been suggested that, rather than expanding the Court in order to broaden its representative character, the Court might decide cases by a two-thirds rather than simple majority, thereby ensuring that the views of all legal systems be fully taken into account in the Court's deliberations. A judgment based on less than a two-thirds majority might be delivered in declaratory form, on the basis of which the parties would negotiate a settlement. This alternative might be studied further.

#### D. Chambers

The United States supports the establishment and wide use of *ad hoc* chambers of the Court for legal problems requiring expertise in technical areas, and for peculiarly regional problems, for whose solution all parties would prefer to address a regionally oriented bench. The Court has adequate authority to create such chambers under the present Statute; liberal exercise of that authority could make the forum of the International Court of Justice considerably more flexible and mobile, and its use less costly and less formal.

To encourage use of such chambers, States might write into future treaties provisions referring disputes to a special chamber rather than to the full Court, if appropriate. The prospect that different chambers might arrive at different conclusions on similar issues could be dealt with by providing for appeal to the full Court but such appeal should be limited to cases of conflicts between chambers.

The United States favors greater use, whenever appropriate, of the Court's chamber of summary procedure created pursuant to Article 29 of the Statute. Although not all cases can or should be handled in this forum, the length of time necessary for litigation in some cases in the past has been cited as discouraging use of the Court.

### III. JURISDICTION OF THE COURT

#### A. Contentious Cases

##### 1. Treaty Provisions

The United States fully supports the inclusion in multilateral and bilateral agreements of clauses providing for submission to the Court of any disputes relating to the interpretation or application of those treaties.

##### 2. Access to the Court

The provisions of the Statute of the Court relating to the right to bring contentious cases to the Court have remained unchanged since 1920 when they were embodied in the Statute of the Permanent Court of International Justice. Since that time, however, there has been tremendous growth in the number and importance of international organizations, with concomitant developments in international law, including the increasing frequency with which international organiza-



tions have become parties to bilateral and multilateral treaties and agreements.

The United States believes that in cases arising under Article 36(1) of the Court's Statute international organizations should be permitted to appear before the Court as plaintiffs or defendants. The agreement of both the international organization and the States concerned would, by the terms of Article 36(1), be necessary in each instance. An intermediate approach not requiring amendment of the Statute might be developed along the lines of the procedures followed in the U.N. Convention on Privileges and Immunities; States might agree that they will regard themselves as bound by advisory opinions sought by international organizations.

#### *B. Advisory jurisdiction*

Access to the advisory jurisdiction of the Court should be expanded concomitantly with access in contentious cases. Although at the present time the United Nations and its Specialized Agencies have the capacity to seek advisory opinions, there is a growing number of other international organizations including regional organizations, whose activities are increasingly important to international law and yet who cannot obtain an advisory opinion from the International Court of Justice. Although the more important question is perhaps how to convince international organizations to request advisory opinions once they have that option, the essential first step is still to make that exercise possible.

Accordingly, the United States favors making the advisory procedure available to more inter-governmental organizations, including regional organizations. A procedure not requiring amendment of the Statute could at the present time be established by the General Assembly through creation of a new special committee similar to the committee used for review of decisions of the Administrative Tribunal of the United Nations. The new special committee could be given authority to request from the Court an advisory opinion on behalf of other international organizations.

In addition, the new committee could be given authority to seek an advisory opinion on behalf of two or more States who voluntarily agree to submit to the advisory jurisdiction of the Court with respect to a dispute between them. This would in effect permit States which would be reluctant to submit a dispute to the binding decision of a contentious case to obtain from the Court an authoritative statement of the relative principles of international law.

### IV. PROCEDURES AND METHODS OF WORK OF THE COURT

#### *A. Preliminary questions*

The Court should adopt the principle of deciding expeditiously and at the outset of litigation all questions relating to jurisdiction and any other preliminary issues that may be raised. It may not always be possible to dispose definitively of all "procedural" issues early in the course of litigation if they are intimately related to questions of substance. However, the practice of reserving decision on preliminary objections by joining them to the merits of a dispute has in certain cases led to unnecessarily long and expensive litigation, and should be avoided wherever possible.

#### *B. Length of the procedure*

Although in special cases extensions of time limits set by the Court may be essential to provide a fair opportunity for preparation, too liberal acceptance by the Court of requests for such extensions can slow litigation to the point of becoming an excessive burden on the parties. The Court should, as it did in the Namibia advisory opinion, apply more stringent standards in deciding whether to grant or deny a request for extension of time.

Similarly, the Court in certain cases should seek to accelerate both written and oral phases of the proceedings in contentious cases. The requirements of Article 43 of the Statute call for a two-part procedure, written and oral, and specify that the written phase is to include a memorial, a counter-memorial and, if necessary, a reply. To this is added the apparent requirement of the Court's rules that a reply and a rejoinder be made in cases submitted by application, and that a reply be made in cases submitted by special agreement. This rigidity could be removed by eliminating the requirements additional to the Statute and leaving to the Court's discretion in each case whether replies need be filed.

In contentious cases where the written pleadings appear adequate, the Court might wish to suggest that the parties agree to dispense with an oral phase, on

the understanding that if any party to litigation requests a hearing it would be granted without prejudice. In addition, the Court might wish, after reading the written documents, to specify the questions that should be addressed in the oral phase. By directing the focus of the oral arguments in this way the Court would reduce duplication of coverage, increase attention paid to issues the Court finds most significant, and minimize the likelihood that the parties will be unprepared to answer questions the Court addresses to them during those proceedings. Finally, increased use of summary procedures, either in chamber or by the full Court, as discussed above, would enable the Court to shorten the length of litigation.

### C. Cost of litigation

The cost of litigation to parties before the Court has often been cited as an impediment to more frequent use of the Court. Although the basic costs of the Court are borne by the international community and recourse to the Court is therefore less costly than, for example, the establishment of arbitral tribunals, there is room for reducing the costs of litigation even further. Shortening the length of litigation and settling cases more expeditiously may reduce the costs somewhat.

Moreover, in order to assure that any State wishing to use the Court may obtain competent counsel, the General Assembly might wish to consider permitting States which have incurred or have agreed to incur the costs of litigation and cannot meet them entirely from their own resources, to seek assistance from the regular U.N. budget pursuant to a decision in each case by the General Assembly.

### V. FUTURE ACTION ON THE ITEM BY THE GENERAL ASSEMBLY

The United States believes that a detailed study of the International Court of Justice and the attitude of States toward the Court is urgently required. While the need for peaceful settlement of international disputes remains urgent, use of the Court has diminished to the point that at times there are no cases at all on its docket.

The reasons for this paradox must be studied in depth if the basic objectives of the U.N. Charter are ever to be fulfilled. To this end the United States would favor the establishment by the General Assembly of an *Ad Hoc* Committee to study the results of the Secretary-General's questionnaire on the review of the role of the Court, and to propose measures designed to enhance the effectiveness of the Court and to encourage its significantly greater use.

Should the General Assembly consider those measures desirable, it might, with the advice and comments of the members of the Court, seek to implement them in two ways. Measures which concern the procedures and methods of work of the Court should be conveyed to the Court for its consideration as the Court reviews its own procedures. Other measures deemed sound by the General Assembly should be implemented wherever possible by action of the Assembly or contained in recommendations for further action by States.

Mr. FINDLEY. Is it your feeling those forms could be accomplished without changing the statute which created the court?

Mr. DE PALMA. Some of them were the kind that could be accomplished that way. Some may require changes in the statute. We were trying to look at the more practical things that could be done without trying to rewrite the statute, extensively.

Mr. FINDLEY. It is my understanding that the court can function as a subcommittee or five-member panel now. Is there nothing in the statute prohibiting that?

Mr. DE PALMA. That's right. But we were trying to encourage greater use of the chambers, which to date have not been utilized.

Mr. FINDLEY. About 3 years ago I asked the legal advisor to the Secretary of State to look into the possibility of presenting some matters to the court in a balanced pair approach, if not by individual cases. For example, the United States should present a case in which we appeared to have a fairly weak position and balance it with one in



which we think our position is stronger, and we should then offer to go to court with these two cases.

My concern then, as now, was that the court has almost no business before it. I am not aware that a single case is pending today. Is there one?

Mr. DE PALMA. There are two. There is a fisheries dispute between Great Britain and Iceland put before the court and a dispute between India and Pakistan regarding the jurisdiction of the ICAO Council.

Mr. FINDLEY. But the ICJ will not become successful until a great power like the United States is willing to go to the court with its own matters, realizing it may take a licking. As far as I know, our Government has not taken much initiative in this direction.

Mr. DE PALMA. I am inclined to agree with you. That is why I myself was interested in the effort being made and, as a matter of fact, that is still being made to identify cases that we might take before the court.

There was a great search made, I might say, and the legal advisor did find a few possible questions. In one case, I understand, further inquiry shows we couldn't get the other party to agree and then other problems arose. But we are not satisfied with the answer, and we still feel we ought to come up with something.

Mr. FINDLEY. I am afraid it is going to die of atrophy if we don't do something pretty soon. It has been a long time.

In Mr. Abshire's letter, as well as your own letter, you refer to the departmental belief that it would be more practical and fruitful to constitute a Presidential commission on the U.N. Is there such a commission now?

Mr. DE PALMA. There is not one in being at this point.

Mr. FINDLEY. Is one contemplated? Do you have authority to appoint one?

Mr. DE PALMA. I suppose we could seek authority at any time from the White House and propose it.

Mr. FINDLEY. Would you need a bill to get that done?

Mr. DE PALMA. Not necessarily. We could take the initiative with the White House, which could, by Executive order, establish it at any time.

Mr. FINDLEY. I think it would please the sponsors of this resolution to see some movement on that. Can you say what will be in the future bill?

Mr. DE PALMA. As I have said, we see value in such a body if properly established. My concern is that it not be put on a permanent basis and expect it to come up with a meaningful report every 6 months. Our view is that if one were set up at least once in each administration and given a period of time to assess development, this would be more fruitful.

Therefore, I would anticipate and I would hope that whatever happens in the election that such a proposal will be made relatively early in the next administration so that we can have a body in being to present its recommendations in good time so that the administration would have a couple of years to pursue them.

Mr. FINDLEY. Would you state just roughly what major countries are not now members of the U.N.?

Mr. DE PALMA. What countries?

Mr. FINDLEY. What major countries.

Mr. DE PALMA. The major countries not represented in the U.N. at the moment are, of course, the two Germanys—I don't know whether I can continue with the rubric major, but the other countries are the two Vietnams, the two Koreas and Switzerland.

Of course, there could be a host of very small states coming along in the future.

Mr. FINDLEY. You indicated that the two Germanys would not be in the U.N. this year. Are you optimistic about this happening next year?

Mr. DE PALMA. I don't know whether I can use the word "optimistic." Certainly the prospect is there and if the ratification of the treaties in Bonn and completion of the Berlin agreement proceed as most people anticipate, it should clear the way.

There is a lot of further work and negotiation, however, to be done before we can actually see the two Germanys—the so-called inner German accords—in the U.N. There are further agreements between the two Germanys that I understand would be involved. Also consultations among the four powers, because there is the question of four-power rights in Germany which will have to be reviewed, and there will have to be renewed commitment to it even as the two governments come into the U.N.

So there are some further negotiations envisioned, but I would say the very real prospect is there for both Germanys coming into the U.N. in the not-to-distant future.

Mr. FINDLEY. You state that it is difficult to get any great progress toward peacekeeping action by the U.N. in the absence of Soviet agreement. Can you give us some idea of what initiatives might be undertaken with some prospects of success in the absence of Soviet cooperation?

Mr. DE PALMA. Yes. The problem is that most U.N. members have felt that it was important, first of all, to see whether the differences which are reflected in the respective Soviet and U.S. approaches could be reconciled. This is not a question just between the United States and the Soviet Union; it is a question, really, between the Soviet Union and, I would say, a majority of other U.N. members.

The difference, very simply, has to do with whether the Secretary-General is going to continue to have executive authority to implement and carry out the mandate of a peacekeeping force in a manner that enables him to adjust it to the requirements of the particular situation.

We agree with the Soviets that the Security Council has the primary responsibility in deciding, first of all, whether or not to establish a peacekeeping mission and in determining its mandate. We also see a role for the Council in determining the general size of the force, and perhaps even requiring that its continuance be reviewed periodically.

Beyond that you get into the operational decisions, what happens on the ground, the selection of a commander, the particular composition of forces, and so on. In these areas the views of the host countries are particularly important, that is, the countries that have consented to receive this force on their territory, and flexibility in implementation is important so that operational decisions can be adapted to the changing circumstances.



We would like to see the Secretary-General have a considerable margin of flexibility, but to make his decisions in consultation with a committee of the Council in which the Big Five would be represented.

The Soviet view appears to contemplate the need for unanimity on the part of the Five on any of these decisions, even those involving operational matters. We find it very difficult to conceive of running successful peacekeeping operations by a committee where unanimity is required. That is the essential difference.

Now, as I say, most members have felt this ought to be reconciled or at least these differences ought to be narrowed. There are all kinds of ideas for revitalizing peacekeeping operations. The idea of a peacekeeping fund, the idea of creating standby forces of one kind or another, the idea of countries pledging to provide logistic support of one kind or another. Varieties of these ideas are at hand, waiting in the wings, so to speak, and we have ideas of our own on all of these questions.

Most countries have felt that until we have this basic understanding on ground rules it would be rather fruitless to proceed with these mechanisms because without an understanding on direction and control these peacekeeping arrangements could not be successfully instituted. But the peacekeeping committee will be meeting again very shortly and at that time, in addition to an attempt to get at the major differences, there will probably be discussion of concrete things that could be put in train to strengthen peacekeeping arrangements.

Mr. FRASER. Mr. Secretary, one of the things I am curious about is in the mechanics of floating a proposal within the United Nations. For example, suppose within the Department that you and your staff conclude it would be useful to pursue a particularly idea. What do you do at that point? What are the mechanics whereby you engage other governments in consultation? For example, does it first have to clear with the Secretary himself and then does the consultation take place through New York or through Embassies? What is the consultative mechanism?

Mr. DE PALMA. It depends very much on the particular proposal or initiatives. If it is a matter on which there is clear and established U.S. policy, we perhaps would only need to inform the Secretary that we are proceeding. If it is some kind of a new departure, or if for any reason there are thought to be possible difficulties, we would, of course, seek the permission of the Secretary and get his endorsement before we did anything.

In some cases it might be necessary to check with the President.

Now, once we have the green light, again it depends very much on the nature of the proposal. But for any matter of substance, any important matter, we would probably have to use every device we know of to get our proposal across to other governments, including consultations in the capitals of U.N. members, or at least certain members, to prepare them for it, to explain it, to tell them why it is that we are pushing this initiative.

Those would then be followed by more intensive and detailed discussions among the U.N. missions in New York, and then there would follow the actual process of introducing the idea into a formal body of the U.N. and pursuing actual negotiation there.

It is a very complicated, time-consuming business.

Mr. FRASER. Whether it involved working through the capitals of other countries, do you write a cable that goes out in the name of the Secretary to the various embassies asking them to take the matter up with the governments?

Mr. DE PALMA. That is correct. In the majority of the cases that is the way the consultation would be carried out in the capital, supplemented as need be by our calling in and discussing the matter directly in Washington with embassy personnel here. We often do it at both places.

Sometimes, depending on the complexity of the issue, we even send people out to the field to visit in key capitals to discuss the matter in some detail.

We have had to do that, for example, on the law of the seas, which is such an intricate and complicated proposal. We have had to send teams of officers, two or three officers at the time, repeatedly to various parts of the world to try to explain our point of view. The same has been true on the U.N. role in narcotics control.

Mr. FRASER. I get the impression this would be a very time-consuming operation.

Mr. DE PALMA. It is time-consuming. I must say it is something which, as a matter of fact, we carry on more or less continuously.

I have just been reminded, for example, that we have just had a series of discussions in Washington with representatives of the Ministry of External Affairs in Canada. We do this periodically with the British Government, with a number of other governments, such as with the Japanese, where we exchange views on a broad list of U.N. items just to be sure we understand each other's thinking and make each other aware of the sort of things we have on our mind.

Mr. FRASER. This presumably is with counterparts in the other ministries?

Mr. DE PALMA. Yes, sir, exactly.

Mr. FRASER. With respect to the question of another commission, was the Lodge Commission based on any type of statutory authority?

Mr. DE PALMA. We had an Executive order.

Mr. FRASER. Isn't that sufficient?

Mr. DE PALMA. I think that is all we had. We need to seek funds sometimes, but that is just a follow on for the Executive order. If necessary, we might have to seek specific funds to fund it, depending on the amount of the money. But an Executive order is all that is necessary.

Mr. FRASER. Provided when you submit appropriations you provide for the staffing?

Mr. DE PALMA. That is correct.

Mr. FRASER. And presumably for travel for commission members and so on?

Mr. DE PALMA. Yes, sir.

Mr. FRASER. I was thinking about the question of whether it is either proper or would be fruitful to open up discussions with our counterparts in other parliaments. Most parliaments are not organized, of course, the way Congress is, so I am not really sure this a proper way to carry on these kinds of discussions, in any event.

I was thinking, for example, about the possibility of sending something like the Lodge report to the French Parliament and asking if



they have a similar report and what ideas they have about the U.N. Would the Department regard this as a productive exercise?

Mr. DE PALMA. I don't know. The results might be interesting.

Mr. FRASER. I gather the French tend to be more conservative on some of these things.

Mr. DE PALMA. Somewhat, I think. I am not aware if there is this regular process of preparing private reports in France. It does happen in other countries, such as the United Kingdom, Canada and the Scandinavian countries, but not in too many countries.

I should add, however, that to our knowledge no other nation undertook the kind of overall review of its policy toward the United Nations comparable to that of the Lodge Commission. Some held ceremonial and educational activities in connection with the 25th anniversary. Also, during the general debate and commemorative session at the 25th General Assembly a number of specific suggestions for procedural and organizational changes were advanced by several delegations. However, none of these efforts came close to being a full-dress public policy review by a high-level national commission. Probably the closest to it was a volume on the United Nations prepared as part of an overall foreign policy review undertaken by the Canadian Government in 1970.

Mr. FRASER. Is the advisory panel that will be appointed likely to play a more active role than the advisory panels for other bureaus? I gather they have not been very active.

Mr. DE PALMA. I don't know how to answer that. We intend to utilize our panel and to meet as regularly as we can and to discuss with our panel the things that are on our minds, both the possibilities for action that we seek and to explain to them where we see the roadblocks.

The practice has not been uniform, but I am aware of one or two other panels now in the Department which, at least it is my impression, are meeting and working quite actively. I am sure this has not been the case in every instance in the past. I suppose it depends on how much push is given to the thing once the commission is created.

Mr. FRASER. Mr. Secretary, we had an analysis made of the recommendations of both the Lodge and Katzenbach proposals by the Congressional Research Service in order to get a better grasp of where initiatives might be taken. The hope of this subcommittee is, I think, to try to work through those recommendations, treating this as an agenda that we would like to try to follow over the months and perhaps the next year or so.

So we would like to be in touch with the Department on this matter from time to time. There may be initiatives which should be taken here in the Congress. For example, the possible repeal of the Connally reservation for the Treaty for the International Court of Justice. It seems to me we have some responsibilities on our side to try to create the climate for some changes which could be accomplished by the United States.

I very much appreciate your coming here today. I know you are working under severe pressures, so we do appreciate this time very much.

Mr. DE PALMA. I thank you very much, Mr. Chairman. I do value the chance to discuss these things. We are very acutely aware of the help we need from the Congress. So I regard these as an opportunity and not a chore, I assure you.

Mr. FRASER. Thank you.

The subcommittee will be adjourned.

(Whereupon, at 3:05 p.m., the subcommittee adjourned, to reconvene subject to the call of the Chair.)

